

SUBMERGED LANDS ACT
AMERICA'S STAKE IN OFFSHORE OIL

MR. MURRAY, FROM THE COMMITTEE ON
INTERIOR AND INSULAR AFFAIRS,
SUBMITTED THE FOLLOWING

MINORITY VIEWS

[To accompany S. J. Res. 13]



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INTRODUCTION

Great wealth lies beneath the waters off the shores of our Nation. The oil supply is the richest of the treasures that have been so far discovered. It is one of the richest discoveries of natural wealth in the history of the United States. In addition, vast reserves of natural gas, sulfur, and other resources, some discovered only recently, bring the total value of the known resources in this rich submerged area to many billions of dollars.

The oil supply alone is one of the keys to the defense of our country and of the entire free world. Planes, tanks, and ships—all of these major instruments of modern warfare—are useful only if there is enough oil to keep them in motion.

These riches provide also one of the keys to the solution of our educational crisis—they can become a priceless endowment for primary, secondary, and higher education in America.

Moreover, the natural riches of our continent form the basis of our free system of prosperous private enterprise. We have always recognized that the foundation of the good life for farmers, businessmen, and all the people of this Nation derives from the intelligent and constructive use and distribution of our lands, forests, waterpower, and minerals. This very question of the protection of great resources for the entire economy is at issue again today.

Against this background we, the undersigned members of the Committee on Interior and Insular Affairs, express our strong opposition to Senate Joint Resolution 13, the "oil give-away" measure which has been reported by the majority of the committee.

This measure would attempt to give away to the three States of California, Louisiana, and Texas vast offshore oil and gas deposits worth many billions of dollars. These resources, as the Supreme Court has repeatedly held, have always belonged to the United States—and have never belonged to the individual coastal States as such. They should be administered by the United States on behalf of the people in all 48 States.

Therefore we recommend the enactment of S. 107, sponsored by Senator Anderson, of New Mexico, which provides that offshore oil and gas shall be administered by the Secretary of the Interior, and shall be developed for national defense and other purposes beneficial to the Nation.

We also recommend the enactment of the provisions embodied in the amendment to S. 107, sponsored by Senator Hill, of Alabama, and 21 other Senators from both sides of the aisle. These provisions would allot the royalties derived from these vast resources to the improvement of education in all the States.

We recommend careful deliberation to the Senate of the United States. We believe that the people of the United States should inform themselves on this great contest, for it is in keeping with their

democratic tradition of watchfulness that they protect their national wealth and Constitution.

Serious questions are raised by this "give-away" legislation:

(1) Has Congress the moral right to give away to 3 States the share of the people of 45 States in their heritage under the marginal seas?

(2) Has the Federal Government, weighted as it is with vast responsibilities and expense, the right to give away valuable assets and sources of revenue which would relieve tax burdens and provide for the national defense?

(3) Have 3 States the right to all benefits from assets in the marginal seas while taxpayers of 48 States must support and regulate navigation, commerce, and international relations in this area, as well provide protection by the Coast Guard in peacetime and full-scale defense in time of war?

(4) Has Congress the constitutional power to give title of the marginal seabed to individual States when the Supreme Court has repeatedly held that such lands belong to the Federal Government, by virtue of its national external sovereignty, and the Justice Department under Democratic and Republican administrations has warned us that such a grant may be unconstitutional?

(5) Has Congress the right to extend any offshore boundaries, as this legislation does, beyond the 3-mile limit, an extension which the State Department has just told us violates international law?

(6) Does the Senate wish to go back on a joint resolution introduced by Senator Nye and adopted unanimously by the Senate on August 19, 1937, that authorized the Attorney General of the United States—

* * * to assert, maintain, and establish the title and possession of the United States to the submerged lands aforesaid, and all petroleum deposits underlying the same * * * to stop and prevent the taking or removing of petroleum products by others than the United States from the said submerged lands * * *

(7) Do the legislators wish to override the clear words of the Supreme Court in the case of *United States v. Texas* (1950), to wit:

* * * once low-water mark is passed the international domain is reached. Property rights must then be so subordinated to political rights as in substance to coalesce and unite in the national sovereign * * *. If the property, whatever it may be, lies seaward of the low-water mark, its use, disposition, management, and control involve national interests and national responsibilities.

It is the purpose of this report to provide basic facts to help both the Senate and the American people to answer such questions for themselves.

SUBMERGED LANDS ACT

APRIL 1, 1953.—Ordered to be printed

Mr. MURRAY, from the Committee on Interior and Insular Affairs,
submitted the following

MINORITY VIEWS

[To accompany S. J. Res. 13]

PART 1—A SUMMARY STATEMENT

I. OUR POSITION

On the basis of our examination of the facts, we take the following position:

1. The "oil give-away" legislation (S. J. Res. 13) should be defeated.
2. The substitute (S. 107) proposed by the Senator from New Mexico, Mr. Anderson, should be adopted.
3. The "oil for education" amendment proposed by the Senator from Alabama, Mr. Hill, should be adopted.

The "oil give-away" legislation (S. J. Res. 13) should be defeated because—

This legislation would attempt to give three States tremendously valuable oil and gas resources which belong to all the people of the United States.

Giving title to the States would violate the United States Constitution.

The argument for this legislation rests on misleading propaganda and misrepresentation of the facts and law. Not a single valid reason has been advanced for the proposal to strip the Nation of its vitally needed resources in the submerged lands of the sea.

The "give-away" legislation would weaken the security of the United States.

It would encourage extravagant boundary claims of Russia and other nations.

It would halt the Government's program for the multiple-purpose development of the water resources in the Nation's navigable rivers.

It would imperil the United States fishing industry.

It would set off a chain reaction of similar "give-aways" in the field of waterpower, reclamation, forests, grazing lands, and mining resources. (See part 2 for full discussion.)

The Anderson substitute (S. 107) should be adopted because—

It would protect the rights of the States.

It would protect the rights of the Federal Government.

It would contribute to prompt development of oil for national defense.

It would protect the legitimate rights of State leaseholders and Federal lease applicants. (See part 3 for full discussion.)

The Hill "oil for education" amendment should be adopted because—

It recognizes the serious need for an improved educational system.

It recognizes the historic policy of using Government-owned lands for educational purposes throughout the United States.

It recognizes the serious tax burdens now faced by State and local governments. (See part 4 for full discussion.)

II. THE BACKGROUND OF THIS CONTROVERSY

Federal control of offshore lands first established by Thomas Jefferson

In 1793, Thomas Jefferson, who was then Secretary of State, put forward the first official American claim for a 3-mile zone off the coast of the United States. This claim won general international acceptance.

During the decades that followed, many controversies developed over the control of tidelands (the lands between the points of high and low tide) and the beds of navigable inland waters. They were settled in a long series of Supreme Court decisions which established control of such lands in the hands of the States. But none of those decisions dealt with the submerged lands of the Continental Shelf that begins at the point of low tide and extends out to the sea.

Congress affirmed United States rights to public land in admission of California

On September 9, 1850, Congress, in admitting California to the Union, specified that—

the people of said State, through their legislature or otherwise, shall never interfere with the primary disposal of the public lands within its limits, and shall pass no law and do no act whereby the title of the United States to, and right to dispose of, the same shall be impaired or questioned; and that they shall never lay any tax or assessment of any description whatsoever upon the public domain of the United States * * *. (See appendix F.)

With discovery of oil, question of rights became important

It was not until the discovery of important oil deposits in the Continental Shelf that the question of rights in such submerged lands became important. The assertion of claims to the Continental Shelf by the States of California, Louisiana, and Texas, and the issuance of oil and gas leases on Continental Shelf lands by these States (beginning as early as the 1920's in the case of California) led to the institution of litigation against them by the Federal Government for the purpose of having the Supreme Court decide whether the United

States or the several coastal States had the right to develop the oil and gas deposits in the Continental Shelf.

Supreme Court affirms, and reaffirms, Federal rights

The Supreme Court settled the question of control over and rights in the Continental Shelf and its mineral resources in three decisions dealing with California (1947), Louisiana (1950), and Texas (1950).

The decrees of the Court reiterated that the United States of America has "paramount rights in, and full dominion and power over, the lands, minerals, and other things" in the offshore area, and that the coastal States, as such, do not own and never did own such submerged lands. The Court used identical language in all three decrees, declaring that the States have "no title thereto or property interest therein."

In another decision, the Court pointed out that "neither the Thirteen Original Colonies nor their successor States separately acquired 'ownership' of the 3-mile belt" (*Toomer v. Witzell*, 334 U. S. 385).

"Give-away" legislation twice vetoed

The "give-away" advocates attempted in 1946 to forestall Supreme Court action through legislation to give the offshore lands of the Continental Shelf to the coastal States. This effort was defeated by a Presidential veto.

After the Supreme Court had acted, the "give-away" advocates attempted to nullify the effect of the decisions. In 1952, this effort also was defeated by a Presidential veto.

Federal Government unable to lease Continental Shelf lands for mineral development

In 1947, the Solicitor of the Interior Department ruled that the Mineral Leasing Act of 1920 was not applicable to the submerged lands of the Continental Shelf. This ruling was contested in a number of court cases. These cases have not as yet been finally decided.

It became evident, therefore, that Federal legislation was needed if the Federal Government were to develop the offshore oil and gas resources of the Continental Shelf. The enactment of such legislation, however, has been prevented by the opposition of the "give-away" advocates. As a result, the proper development of the offshore oil and gas resources has been stalled.

Louisiana and Texas defied the Supreme Court

When the Supreme Court was considering the California case, Louisiana and Texas intervened and presented their views to the Court. After the case was decided in favor of the United States, Louisiana and Texas defied the Supreme Court ruling. Louisiana continued to issue oil and gas leases on, and Texas initiated a program of leasing for oil production, Continental Shelf lands, including lands situated seaward of their so-called historic boundaries. These States profited by many millions of dollars, even after it was clear from the Supreme Court's ruling in the Louisiana case that they were trespassing on property belonging to all the people of the United States. Passage of quitclaim legislation would put a premium on deliberate defiance of the law.

Attorney General Brownell warns against quitclaim legislation

Attorney General Brownell on March 2, 1953, in his testimony before the Interior Committee, advised against giving title to any marginal seas.

Mr. Brownell stated:

My recommendation would mean, in legal terms, that instead of granting to the States a blanket quitclaim title to the submerged lands within their historic boundaries, the Federal Government would grant to the States only such authority required for the States to administer and develop the natural resources.

Secretary of State Dulles opposes boundaries beyond 3-mile limit

On March 6, 1953, in a letter to Senator Henry M. Jackson of the Interior Committee, Secretary Dulles, through an Assistant Secretary of State, stated:

Extension of the boundary of a State beyond the 3-mile limit would directly conflict with international law.

So much for the talk in the give-away bill of "historic boundaries" which go beyond the Nation's 3-mile limit.

No valid reason ever advanced for give-away of public trust to States

During the hearings, the advocates of Senate Joint Resolution 13 were challenged to produce a single valid reason why the United States should surrender its vast oil properties in the submerged lands of the marginal sea.

They undertook to submit two reasons: One was that they had enjoyed such rights over a long period of time, asserting ownership since entrance into the Union. This contention was rejected by the Supreme Court of the United States. It has no valid basis in fact or law. It is irrelevant in considering legislation on the subject.

The other alleged reason was that the Attorney General of the United States, during the argument in the California case, had promised that equity would be done the States concerned. This "reason" would embrace the preposterous idea that a mere promise of "equity" meant that the United States would give up everything it won in the litigation.

The complete answer is that equity—and more than equity—has already been done. California, Louisiana, and Texas have been permitted to keep all the many millions they received through their unlawful trespasses on Government property. The Government did not ask, as would be done in the case of private controversies, that the owner be reimbursed for the losses sustained. Moreover, the United States agreed to ratify and confirm existing leases in the marginal sea held by the States' lessees or assignees, an agreement that involved enormous losses for the United States, because the States retained all the down payment, or bonuses, paid for such leases.

So these unsound "reasons" have no basis. And without them, there is not a shadow of a pretense that any justifiable ground exists for stripping the United States of its natural resources in the submerged lands of the marginal sea.

PART 2—THE “OIL GIVE-AWAY” LEGISLATION SHOULD BE DEFEATED

III. THE VALUE OF OFFSHORE MINERAL RESOURCES

One of the reasons why the give-away legislation has not been more vigorously opposed in the past has been that most people have not realized the tremendous value of the oil and gas resources on the Continental Shelf. In fact, some supporters of the legislation have displayed an understandable interest in underestimating the great wealth that would be given away under their proposals—or in obscuring it behind a smokescreen of complicated legal disputation.

We are therefore presenting herewith official figures prepared by the United States Department of the Interior.

It should be kept in mind that geologists are traditionally conservative in their calculations and the following figures are minimum estimates. Further exploration and development of the offshore mineral resources of the Continental Shelf may multiply the figures many times.

Also, the value of these resources is usually expressed in terms of current prices. The probability is that the price for both oil and gas will rise in the future—as it has in the past—and that the dollar value of these assets will therefore increase over the years.

Oil

The estimated potential reserves of our offshore oil resources in the Continental Shelf lying seaward of the coasts of California, Louisiana, and Texas is a little more than 15 billion barrels.

This figure can be compared with the 33.7 billion barrels of proved reserves for the upland area within the United States as a whole. It is 45 percent of the estimated proved reserves.

Both these estimates are set forth in the table entitled “Estimated Proved and Potential Petroleum Reserves,” prepared by the Department of the Interior.

The table also shows the distribution of these reserves.

It can be seen that 9 billion barrels—three-fifths of the total for the Continental Shelf—are on the Continental Shelf off the shores of Texas. Louisiana comes next with 4 billion barrels, and California next with a little more than 2 billion barrels.

It can also be noted that in the case of California a slightly greater portion of the potential oil reserves in the Continental Shelf is found within than is found *outside* the 3-mile limit. In the case of Texas and Louisiana, the greater bulk is thought to be *outside* the 3-mile limit.

A special breakdown is provided for Texas, which claims an “historical boundary” of 3 leagues (9 nautical or 10½ statute miles) in the Gulf of Mexico. Only 400 million barrels—less than 5 percent of the Texas total of 9 billion barrels—is *within* the 3-mile limit. However, the 3-league limit includes 800 million barrels found *outside* the 3-mile limit. Thus, the total for the 3-league limit is 1.2 billion barrels—triple the amount found within the 3-mile limit. The largest proportion—7.8 billion barrels—is outside the “historical limit” of 3 leagues.

Estimated proved and potential petroleum reserves ¹

[Stated in millions]

State	Submerged coastal lands				All lands, estimated proved reserves ¹	
	Estimated proved reserves		Estimated potential reserves ²			
	Oil	Gas	Oil	Gas	Oil	Gas
	Barrels	Thousand cubic feet	Barrels	Thousand cubic feet	Barrels	Thousand cubic feet
Louisiana.....					3,050	30,000
Landward 3-mile line.....	84		250	1,250		
Seaward 3-mile line.....	335	2,100	3,750	18,750		
Total.....	419	2,100	4,000	20,000		
Texas.....					18,204	107,000
Landward 3-mile line.....	15		400	2,000		
Landward 3-league line.....	15	75	1,200	6,000		
Seaward 3-mile line.....		75	8,600	43,000		
Seaward 3-league line.....			7,800	39,000		
Total.....	15	75	9,000	45,000		
California.....					4,529	9,500
Landward 3-mile line.....	160		1,100	2,000		
Seaward 3-mile line.....			900	1,500		
Total.....	160		2,000	3,500		
Grand total.....	594	2,175	15,000	68,500	25,738	146,500
Other States.....					7,997	50,480
United States total.....					33,735	196,980

¹ All the figures herein given are subject to the explanation as shown by the report of the Fuels Branch, Geologic Division, U. S. Geological Survey, appearing at p. 1091, transcript of hearings before the Senate Committee on Interior and Insular Affairs to the effect that, "estimation of the potential reserves * * * that underlie the Continental Shelf must be extremely speculative. * * * Almost no data are available to provide the basis for a sound estimate."

² Includes proved reserves.

³ Jan. 1, 1953, *The Oil and Gas Journal*, Jan. 26, 1953, liquid hydrocarbons.

Distances from shore are in nautical (geographical) miles; 1 nautical mile (6,080.27 feet)=1.15 statute mile (5,280 feet); 1 league=3 nautical miles; approximately 3½ statute miles.

The table also indicates that only an extremely small portion of these reserves is as yet "proved." The reason for this is that the campaign for "give-away" legislation has again and again held up congressional action on legislation to expedite exploration and development under the auspices of the Federal Government.

It should also be kept in mind that there are probably vast oil reserves in the Continental Shelf off the coast of Alaska. The total area of the shelf off Alaska is estimated to contain 600,000 square miles, more than twice the 290,000 square miles in the Continental Shelf off the United States itself. An estimate of the United States Geological Survey, based upon the studies of L. G. Weeks for the American Association of Geologists, suggests that in the case of Alaska "the reserve estimate would be 23.6 billion barrels." This would bring the total estimate up from 15 billion barrels to 38.6 billion barrels.

The total dollar value of the oil reserves (excluding Alaska) can be shown as follows:

	Billion barrels	Billion dollars (rounded)
Landward 3-mile line.....	1.75	4.6
Seaward 3-mile line.....	13.25	34.6
Total.....	15.0	39.2

This tabulation is based on the conservative assumption of \$2.65 per barrel. Thus, the total value of the potential oil reserves within the 3-mile limit comes to almost \$5 billion. The total value outside the 3-mile limit comes to almost \$35 billion.

An estimated 800 million barrels of potential reserves are to be found outside the 3-mile limit, but inside the so-called 3-league "historical boundary" of Texas. These reserves may be estimated as worth over \$2 billion.

All in all, the total value of the 15 billion barrels of oil is worth just about \$40 billion.

This \$40 billion figure is equivalent to the total Federal revenues from individuals and corporation taxes in fiscal 1951. It is greater than total budget expenditures for military services in fiscal 1952. It is almost one-fourth of the total current assets of American corporations, as reported by the Securities and Exchange Commission.

Even so, this \$40 billion figure is an underestimate because it is based upon the current price of oil. No allowance is made for the normal increase in oil prices.

In a report entitled "Submerged Oil and Education" of February 20, 1953, the Public Affairs Institute makes the following estimate concerning the future price of oil:

A probable average price for the oil over the next 20 years is \$4.50 a barrel. The price of petroleum has been increasing at the rate of 7 percent annually. With the moderate estimate of 15 billion barrels the gross income would total \$76.5 billion.

In support of this estimate, it can be pointed out that over the 12-year period from 1940 to January 1953, the index of petroleum and petroleum products prices went from 50 to 117.4, an increase at the rate of 7 percent annually. If, under the pressure of increased demand, prices were to increase at the same rate annually, the price would be \$4.50 within 8 years. On this assumption, the 15 billion barrels would be worth \$76.5 billion.

But these estimates do not include the 23.6 billion barrels of oil which are estimated to lie in the Continental Shelf off the coast of Alaska. As indicated earlier, when Alaskan reserves are included, the total estimate rises from 15 billion barrels to 38.6 billion barrels. At the current prices, the total offshore potential reserves would thus be worth not \$40 billion, but over \$102 billion.

This figure, of course, is based upon the current price. If it is assumed, however, that the price for oil over the next 20 years will average \$4.50 a barrel (as estimated by the Public Affairs Institute), then the total value of the offshore-oil resources (including Alaska) will amount to over \$173 billion.

It should also be kept in mind that the estimates supplied by the Department of the Interior are extremely conservative. Oil-company experts who operate close to the scene have often come forth with what are probably much more realistic estimates. Thus a group of 18 Texas geologists and registered engineers have estimated potential oil reserves off the coast of Texas of 11 billion barrels, as contrasted with the 9 billion barrels estimated by the Department of the Interior. (See appendix B for full report of Texas geologists and engineers.)

Gas

The estimated potential reserves of gas in the offshore lands as shown in the table entitled "Estimated Proved and Potential Petroleum Reserves," is 68.5 trillion cubic feet. This is more than one-third of the proved reserves of 196 trillion cubic feet within the land area of the United States.

The table also shows the distribution of these reserves. As with oil, the largest amount is off the coast of Texas and the smallest amount off the coast of California.

The dollar value of gas is extremely difficult to estimate. Prices vary from as low as 7 cents per M c. f. (1,000 cubic feet) to 25 cents per M c. f. Among the factors determining the price are the accessibility of the gas reserves and the extent to which the flow of gas from these reserves can be controlled.

For the purpose of simplicity, these gas reserves might be priced at an average of 15 cents per M c. f.—the same price figure which is used in the report of the Texas geologists and engineers. This would bring the total value of the potential gas reserves in the Continental Shelf to a little more than \$10 billion.

Other minerals

There is no reason to believe that oil and gas are the only mineral resources in the offshore lands.

Geologists have already found sulfur in the offshore lands off the coast of Texas. The October 1952 report of the Texas geologists and engineers estimates 120 million long tons of sulfur at a price of \$25 per long ton. The sulfur reserves alone would be worth more than \$3 billion.

As the offshore resources are developed during the coming years, it is highly likely that other valuable minerals will also be discovered in sizable quantities.

Potential revenues.

As already indicated, the value of oil and gas resources in the offshore area can be conservatively estimated at \$40 billion and \$10 billion, respectively—or a total of \$50 billion.

If royalties are estimated at 12½ percent (also a bare minimum figure), the potential revenues from these \$50 billion worth of assets will be \$6.25 billion.

This sum is practically equivalent to the total annual interest paid each year on the national debt.

A breakdown of these revenues is as follows:

[Billions of dollars]

	Estimated value	Estimated royalties
Landward 3-mile line.....	8	1
Seaward 3-mile line.....	42	5.25
Total.....	50	6.25

These estimates, however, are extremely conservative. They do not take into account the value of either Alaskan reserves or sulfur reserves or any other things of value that may be found, such as uranium. They assume prices no higher than the present prices.

Moreover, they do not take into account the estimates contained in the October 1952 report of the Texas geologists and engineers.

A summary of the Texas report appeared in the Houston Post of Sunday, October 26, 1952. According to this group of experts, "The submerged lands off the shore of Texas are reported to hold gas, oil, and sulfur worth an estimated \$80 billion." The names of the experts who prepared this \$80 billion estimate for Texas alone appear in appendix D.

The inclusion of any of these additional considerations would add substantially to the \$6.25 billion estimate of royalties. With Alaskan reserves included, with price increases assumed, and with a \$3 billion estimate for sulfur included, the total value would be \$186 billion. At the rate of 12½ percent, royalties on this amount would be more than \$23 billion.

Revenues already accrued

Even though the development of offshore resources has thus far proceeded at a snail's pace because of the submerged lands controversy, substantial revenues have already accrued since the Supreme Court upheld the rights of the Federal Government.

For example, the offshore oil deposits along the California coast have produced revenues aggregating more than \$47.3 million since the case against California was decided favorably to the United States in 1947.

The revenues derived from the Continental Shelf lands off Louisiana and Texas have aggregated approximately \$15 million and half a million, respectively, since the cases against Louisiana and Texas were decided in 1950.

Thus, a grand total of approximately \$62.8 million, derived from the submerged lands of the Continental Shelf, is awaiting disposition either to the Federal Government or to the three States at the present time. A little more than \$27 million of this amount has been impounded by the State of California. A little more than \$35 million is held in escrow by the United States.

IV. WHAT THE "GIVE-AWAY" LEGISLATION (S. J. RES. 13) WOULD DO

It attempts to give States title to offshore lands

Sections 3 (a) (1) and 3 (b) (1) of Senate Joint Resolution 13 vest "title in and ownership of the lands," to the States. This would divest the United States Government of any title it may have to the submerged land even though the Supreme Court has stated the Federal Government holds this land by virtue of its national external sovereignty.

Section V of this report presents the constitutional case against these provisions.

It also gives administrative control

Section 3 (a) (2) of Senate Joint Resolution 13 gives to the States "the right and power to manage, administer, lease, develop, and use the said lands." This provision will run concurrently with vesting of "title to and ownership of the lands," unless this latter provision is declared invalid. Section 11, the separability clause, is intended to permit the right to "manage, administer, lease, develop, and use the said lands" to remain in effect in the event divestment of title

and ownership is declared unconstitutional, but it may be found that such rights are inseparable from the other provisions, and will fall with them.

Section V of this report shows that this provision was inserted because of the doubtful constitutionality of section 3 (a) (1) and 3 (b) (1).

It recognizes State boundaries beyond 3-mile limit, but fails to define them

Sections 2 (b) and 4 of Senate Joint Resolution 13 recognize as present seaward boundaries of the original coastal States "3 geographical miles distant from its coastline." For other coastal States, seaward boundaries are set "as they existed at the time such State became a member of the Union."

The 3-mile seaward limit conforms with the traditional United States claims of territorial sea.

The actual defining of boundaries at the time States became members of the Union has never been accomplished. The full implications of this provision and its effects on our foreign relations and fishing industry are discussed in sections VIII and X of this report.

The boundaries of the State of Texas are discussed in fallacy No. 4 in section VI of this report and in appendix D.

It restates existing law on State ownership of lands beneath inland waters

Sections 2 (a) (1) (2) (3), (3) a, of Senate Joint Resolution 13 give legislative confirmation to many previous judicial and executive determinations, that "title to and ownership of" lands beneath inland navigable waters, the area between mean low and high tide, and "filled in, made, or reclaimed lands" formerly beneath these waters, is vested in the States.

At many places in this report (fallacies Nos. 1 and 2 of sec. VI, sec. VIII and X) it is shown that these provisions are included in Senate Joint Resolution 13 in order to confuse the issue and obtain unwarranted support for this legislation.

It contains a "sleeper" provision that would halt multiple-purpose development of river resources

Section 6 is entitled "Powers Retained by the United States."

But after listing in subsection (a) certain rights which the United States is to retain, it then goes on to say that the retained rights shall not include "rights of * * * use, and development of the lands * * *" involved in this joint resolution (p. 19, lines 2 and 3).

Section IX of this report demonstrates how this provision (if constitutional) would destroy the Federal Government's program for the development of water resources for the purposes of navigation, flood control, irrigation, and electric power.

It gives away accrued royalties

Section 3 (b) (2) relinquishes all claims of the United States for royalties on these lands.

Section 3 (b) (3) requires the "Secretary of the Interior or the Secretary of the Navy or the Treasurer of the United States" to pay back to the respective States (meaning Texas, Louisiana, and California) the revenues now being held in escrow by the United States.

Section III of this report gives the information on the \$62 million which would be lost to the United States as a result of these provisions.

It provides no authority for developing resources on the Continental Shelf beyond the so-called "historic boundaries"

Senate Joint Resolution 13 confines itself to the land within the so-called "historic boundaries" of the States. They are boundaries 3 geographical miles from shore, and such boundaries beyond that may have heretofore or hereafter be approved by Congress.

These "boundaries" are loosely called "historic boundaries" by those who also misuse the word "tidelands." Senate Joint Resolution 13 does not refer to "historic boundaries"; that phrase does not appear anywhere in the resolution. It will undoubtedly be used again and again in debates and in the courts, as "tidelands" was and is being used, for purposes of confusion. Nobody knows what "historic boundaries" really means, or when applicable history started or ended.

The majority of the committee has rejected the advice of Attorney General Brownell that Senate Joint Resolution 13 include provisions or a map on which a definite line be drawn to mark the seaward boundary of all coastal States. Senate Joint Resolution 13, as reported out of committee, does not do this. The failure to describe boundaries definitely, or to draw the exact lines on a map, invites litigation. Senate Joint Resolution 13 leaves the question as to the extent of State boundaries outside of the 3-mile belt, if there are to be any, in confusion. There must be further legislation to clear up the point, unless the courts find a way to settle it.

Section 9 disclaims any intention of affecting the rights of the United States outside of these boundaries.

Yet it provides no authority whatsoever for the Federal Government to develop the resources that are not taken away.

As pointed out in section III of this report, the great bulk of the oil and gas resources lie in this outer area.

As pointed out in section VII, the failure to provide Federal developmental authority impedes the use of these oil resources for national defense purposes.

It provides a procedure—and a precedent—for subsequent give-aways through the extension of State boundaries

Section 2 (b) provides that State boundaries shall be such as "heretofore or hereafter approved by the Congress * * *."

A similar phrase is found at the end of section 4.

Thus the Congress would recognize in advance the propriety of future legislation extending State boundaries further out on the Continental Shelf. Furthermore, the passage of Senate Joint Resolution 13 would open the door for subsequent legislation of this type.

V. GIVING TITLE TO THE STATES WOULD VIOLATE THE UNITED STATES CONSTITUTION

The Congress could not validly convey Continental Shelf lands to the coastal States

The Supreme Court has indicated that rights in lands underlying navigable waters, seaward from the low-water mark, are an incident of governmental powers or sovereignty and cannot be separated from such powers.

The first Supreme Court decision which developed the relationship between governmental powers or sovereignty and rights in lands

underlying navigable waters was rendered in the case of *Martin et al. v. Waddell* (16 Pet. 367 (1842)). This case involved a portion of the bed of Raritan River and Bay in New Jersey. In tracing the title to this submerged land, one of the questions which the Court had to decide was whether, when the proprietors of East New Jersey surrendered to the British Crown in 1702 the powers of government with regard to East New Jersey, but retained all proprietary rights in the publicly owned lands within that colonial territory, this retention of proprietary rights covered the bed of Raritan River and Bay. The Court held (pp. 413-416) that it did not; that the lands underlying navigable waters within East New Jersey had been vested in the proprietors "as one of the royalties incident to the powers of government"; and that, when the proprietors of East New Jersey surrendered to the British Crown the powers of government with regard to that territory, such surrender included, as an incident of the powers of government, the ownership of the beds of navigable rivers, bays, and arms of the sea within the area.

Therefore, although the proprietors of East New Jersey expressly retained, in the transaction of 1702, the publicly owned lands within East New Jersey, it was held by the Court that they did not thereafter have any rights of ownership in the beds of navigable rivers, bays, and arms of the sea within that territory.

The concept that proprietary rights in lands underlying navigable waters are an incident of governmental powers, or sovereignty, was reiterated by the Supreme Court in the cases of *Barney v. Keokuk* (94 U. S. 324, 338 (1876)); *McCready v. Virginia* (94 U. S. 391, 395 (1876)); and *Massachusetts v. New York* (271 U. S. 65, 89 (1926)).

Thus, lands underlying navigable waters are held by the sovereign in trust for the people. *Smith v. State of Maryland* (18 How. 71, 74-75 (1855)). The sovereign cannot validly make a blanket disposition of such lands in derogation of the rights held in common by the people. *Illinois Central Railroad v. Illinois* (146 U. S. 387 (1892)). As the Court said in the latter case (at p. 460), "There can be no irrevocable contract in a conveyance of property by a grantor in disregard of a public trust, under which he was bound to hold and manage it."

The cases heretofore cited in this part of the discussion dealt with the beds of navigable inland waters, as to which the States in which they are situated have paramount rights. It appears, however, that the same principles would be applicable—indeed, more clearly so—to the relationship of the United States to the submerged lands of the Continental Shelf beneath the marginal sea.

The Supreme Court said in the case of the *United States v. California* (332 U. S. 19, 32-36 (1947)) that the United States has paramount rights in the submerged lands of the Continental Shelf beneath the marginal sea, just as the respective States have paramount rights in the beds of navigable inland waters; that the rights of the United States in the Continental Shelf were acquired under the principles of international law and in furtherance of the Federal Government's international interests and responsibilities; and that the protection and control of the Continental Shelf are functions of national external sovereignty.

This idea was further expounded by the Supreme Court in its decision in the case of *United States v. Texas* (339 U. S. 707 (1950)). In that case, the Court stated (at p. 719) that:

* * * once low-water mark is passed the international domain is reached. Property rights must then be so subordinated to political rights as in substance to coalesce and unite in the national sovereign. * * * If the property, whatever it may be, lies seaward of the low-water mark, its use, disposition, management, and control involve national interests and national responsibilities. * * *

If, as the Supreme Court has said, proprietary rights in the lands of the Continental Shelf are so subordinated to political rights as to coalesce in the national external sovereignty, it would seem to follow that the Congress could not, in derogation of the national external sovereignty, validly convey Continental Shelf lands to the coastal States.

For constitutional reasons, Attorney General Brownell recommended against quitclaim legislation

In his testimony of March 2, 1953, before the Senate Committee on Interior and Insular Affairs, Attorney General Herbert Brownell, Jr., startled the advocates of the give-away legislation by proposing—

instead of granting to the States a blanket quitclaim title to the submerged lands within their historic boundaries, the Federal Government would grant to the States only such authority as required for the States to administer and develop the natural resources.

The Attorney General went on to describe his proposal as “a method of minimizing if not eliminating altogether the constitutional point raised by witnesses before this committee.”

Obviously the Attorney General was considerably impressed by the testimony of such witnesses as the former Solicitor General, Philip B. Perlman, who pointed out in the hearings on Senate Joint Resolution 13, as he had done during previous hearings on quitclaim bills, that there is a substantial constitutional question as to the power of Congress to dispose of rights vested in the United States as an incident of national external sovereignty.

In recognizing the great strength of the constitutional argument against quitclaim legislation, the Attorney General naturally had to take great pains not to make any personal statements supporting the constitutional argument against this legislation. If the legislation should be approved by the Congress and signed by the President, the Attorney General might be faced with the unpalatable task of defending the legislation before the Supreme Court. This task would be difficult enough without being embarrassed by personal testimony of his own supporting the case that the legislation is unconstitutional. Hence the Attorney General carefully protected his position. He took care to refer to the constitutional question as “the constitutional point that has been raised before this committee * * * by certain persons * * *.” He also added a protective statement that he himself did not personally “intend to cast any doubt upon the constitutionality of a so-called quitclaim statute.” Nevertheless, the Brownell proposal that the quitclaim approach be rejected and that instead the States should merely be given administrative authority constitutes in itself a clear recognition of the power behind the constitutional argument.

Senate Joint Resolution 13 attempts to meet Attorney General Brownell's objection through the device of conferring not only title and ownership of the submerged lands on the States (sec. 3 (a) (1)), but by providing in a separate clause the right to manage, administer, lease, and develop these lands (sec. 3 (a) (2)).

This device has been resorted to because even the proponents of quitclaim now are concerned about the constitutionality of conveying title and ownership of these submerged lands to the States. The proponents of quitclaim legislation wish to have their cake and eat it too. They are saying to the Congress, "Give us the title to this land, but in the event this conveyance is declared unconstitutional we still want the Federal Government to give us its rights to the mineral resources off our shores."

This tacit admission of the possible unconstitutionality of conveyance of title has now sharpened the issue to the simple question of whether the revenues obtained from the extraction of oil in offshore submerged lands belonging to all the people should be given to a few States who have no right to them.

A Member of Congress should vote against any measure he believes to be unconstitutional

Under the American system of Government, each branch of the Government has a major responsibility in defending and supporting the American Constitution.

Insofar as the Congress is concerned, this responsibility is made perfectly clear in the oath taken by every Member of the Congress upon admission to office:

I, A B, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter: So help me God (15 Stat. 85, July 11, 1868).

This responsibility cannot be discharged by "passing the buck" to the Supreme Court. It is incumbent upon every Member of the Congress who believes that a proposed measure is unconstitutional to cast his vote against it.

In this particular case, it is becoming perfectly clear to more and more Members of the Congress that any effort to give to the States a portion of Federal sovereignty is unconstitutional. We urge that every Member who comes to this conclusion vote against the measure.

If "give-away" legislation is adopted by the Congress, it would lead to protracted litigation in the courts

If quitclaim legislation is passed by the Congress and signed by the President, there is not the slightest doubt in the world that it will be immediately tied up in litigation.

Private interests have already announced their intention to start judicial proceedings the day when such legislation is signed by the President.

Action by public bodies may also be confidently expected. A good example is found in the case of Rhode Island. On Thursday, March 12, the Rhode Island House of Representatives unanimously passed a resolution to the following effect:

Resolved, That the attorney general of the State of Rhode Island be and he is hereby authorized and directed to begin immediately a study of the legal and equitable issues and principles involved in legislation purporting to divest the United States of its rights, title, and interest in any of the submerged lands of the seas bordering the coasts of the United States, and in the event of the passage of such legislation to institute such suits or proceedings, or to take such other

action as may be advisable or necessary, to obtain a final determination by the courts as to the power of Congress to make such enactments. * * *

This resolution was preceded by a statement that quitclaim legislation "would for many reasons, violate the Constitution of the United States."

We strongly believe that the result of this litigation would be to nullify any quitclaim provisions included within a law adopted by the Congress.

At the same time, we recognize that the judicial proceedings will unquestionably take a considerable period of time. During this period of time, the development of offshore oil and gas resources would be seriously impeded. The only way to obtain the prompt development of these resources which is so sorely needed for national defense purposes is, therefore, to reject quitclaim legislation and to adopt the Anderson substitute.

VI. THE DEFENSE OF THE "OIL GIVE-AWAY" LEGISLATION RESTS OF FOUR FALLACIES

Fallacy No. 1—Senate Joint Resolution 13 is needed to clear States' title to "tidelands."

Fact No. 1—States' title to "tidelands" unquestioned.

The use of "tidelands" in this connection has been a masterpiece of propaganda

The use of the term "tidelands controversy" to describe the controversy of recent years between the United States, on the one hand, and the States of California, Louisiana, and Texas, on the other hand, over the submerged lands of the Continental Shelf adjacent to the coasts of those States has constituted a masterpiece of propaganda.

Since, as we shall subsequently show in this part of the minority report, it had been well settled for more than a hundred years before the first of the Continental Shelf cases arose that the States own any tidelands situated within their boundaries, the implication that Federal officials have attempted in recent years to overthrow—and, with the assistance of the Supreme Court, have succeeded in overthrowing—this settled principle of constitutional law regarding the ownership of tidelands by the States has provided the basis for the employment of such epithets as "tidelands grab" and "tidelands steal" to characterize Federal activities relating to the Continental Shelf.

Tidelands defined

Tidelands are lands that are alternately covered and uncovered by the flow and the ebb of the tide (*Walker v. The State Harbor Commissioners*, 17 Wall. 648, 650 (1873); *Knight v. United States Land Association*, 142 U. S. 161, 186 (1891); *Baer v. Moran Brothers Company*, 153 U. S. 287, 288 (1894)).

The Supreme Court decided in 1845 that tidelands are owned by the States

The question of the ownership of tidelands situated within the boundaries of a State was first decided by the Supreme Court more than 100 years ago in the case of *Pollard's Lessee v. Hagan et al.* (3 How. 212 (1845)). That case involved a tideland area on the shore of a tidewater section of the Mobile River in Alabama. The Court

held in substance (pp. 228-229) that when Alabama ceased to be a Territory and was admitted to the Union as a State, she was thereby placed on an equal footing with the Thirteen Original States; that the Thirteen Original States, upon the attainment of independence, had acquired from the British Crown the ownership of the tidelands situated within their respective boundaries and had not surrendered these lands to the Federal Government at the time of the adoption of the Constitution of the United States; and, accordingly, that Alabama's admission into the Union on an equal footing with the Thirteen Original States automatically effected a transfer from the United States to Alabama of the title to the tidelands within her boundaries, the United States having theretofore held such lands in trust for the State to be created out of the Alabama Territory.

Subsequent Supreme Court decisions have uniformly adhered to the view that the respective States (or their grantees) own the tidelands situated within the States' boundaries (*Goodtitle v. Kibbe*, 9 How. 471 (1850); *Den. v. Jersey Company*, 15 How. 426 (1853); *Mumford v. Wardwell*, 6 Wall. 423 (1867); *Walker v. The State Harbor Commissioners*, 17 Wall. 648 (1873); *San Francisco v. LeRoy*, 138 U. S. 656 (1891); *Knight v. United States Land Association*, 142 U. S. 161 (1891); *Shively v. Bowlby*, 152 U. S. 1 (1894); *Mann v. Tacoma Land Company*, 153 U. S. 273 (1894); *Mobile Transportation Company v. Mobile*, 187 U. S. 479 (1903); *United States v. Mission Rock Company*, 189 U. S. 391 (1903); *Port of Seattle v. Oregon & Washington Railroad Company*, 255 U. S. 56 (1921); *Borar, Ltd. v. Los Angeles*, 296 U. S. 10 (1935)).

The Government did not claim any tidelands in the Continental Shelf cases against California, Louisiana, and Texas

The complaint that was filed by the Federal Government in the first of the Continental Shelf cases—the one against California—made it plain that the United States was not claiming any tidelands within the boundaries of California, and that the litigation related exclusively to the submerged lands of the Continental Shelf underlying the open waters of the Pacific Ocean, to the seaward of the tidelands along the California coast. The complaint (pp. 6-7) specifically described the lands in controversy as—

* * * underlying the Pacific Ocean, lying seaward of the ordinary low-water mark on the coast of California * * *

i. e., seaward of the tidelands.

Moreover, the Government's brief in the California case expressly stated (p. 2) that—

No claim is here made to any * * * tidelands, namely, those lands that are covered and uncovered by the daily flux and reflux of the tides (i. e., those lands lying between the ordinary high- and low-water marks). There are decisions of this Court which appear to hold that * * * title to the tidelands reside[s] in the State. The Government does not challenge the results of those decisions. * * *

A similar position was taken by the Government in the Continental Shelf cases against Louisiana and Texas, with respect to the subject matter of the litigation.

The Supreme Court's decrees in the Continental Shelf cases excluded tidelands

The Supreme Court's decree in the California case (322 U. S. 804) showed plainly that the Court was only passing upon the question of

rights in the submerged lands of the Continental Shelf beneath the open sea, lying to the seaward of the tidelands on the California coast. The decree referred to the subject matter of the litigation as—

* * * the lands, minerals, and other things underlying the Pacific Ocean lying seaward of the ordinary low-water mark on the coast of California. * * *

Similarly, the decrees entered by the Supreme Court in the later Continental Shelf cases against Louisiana (340 U. S. 899) and Texas (340 U. S. 900) carefully excluded tidelands from the scope of the decrees.

Therefore, it has been completely misleading for anyone to state or to imply that tidelands were involved in the recent litigation between the United States and the States of California, Louisiana, and Texas. That litigation related exclusively to the lands of the Continental Shelf beneath the open sea, lying to the seaward of the tidelands.

The reference by the Supreme Court to the "paramount rights" of the United States in the Continental Shelf does not threaten the States' rights in tidelands

The use by the Supreme Court, in its decisions relating to the Continental Shelf, of the term "paramount rights" in connection with the rights of the United States in the Continental Shelf does not, as has been frequently asserted, constitute a threat to the States' titles to tidelands situated within their boundaries.

Many persons have construed, or purported to construe, the Supreme Court's decisions in the Continental Shelf cases as permitting the Federal Government to take the submerged lands of the Continental Shelf from the coastal States without compensation because of the paramount rights of the Federal Government over such lands, arising from the constitutional functions of the Federal Government with respect to international affairs and national defense; and it has been argued that this doctrine might permit the Federal Government, in the exercise of its paramount rights, to take the States' tidelands, as well as other State-owned or privately owned property, without compensation.

Of course, the Supreme Court did not hold in the Continental Shelf cases that the Federal Government could take the submerged lands of the Continental Shelf from the coastal States without compensation. Rather, the Court decided that the coastal States, as such, had never held any rights in the submerged lands of the Continental Shelf; that the United States, and not the several coastal States, had initially acquired dominion over and rights in such lands; and, accordingly, that the States of California, Louisiana, and Texas had acted without lawful authority when they purported to assume control over, and issued oil and gas leases on, submerged lands of the Continental Shelf.

The Supreme Court held that, just as the several States have paramount rights in any tidelands situated within their respective boundaries, the Federal Government has paramount rights in the submerged lands of the Continental Shelf underlying the open sea, because it was the Federal Government (and not the individual coastal States) that initially acquired such lands in the performance of the functions of national external sovereignty over international affairs and national defense vested in the Federal Government by the

Constitution. This basis for the existence of paramount rights in the Federal Government with respect to the submerged lands of the Continental Shelf could not, of course, be extended so as to apply to tidelands or to any other property in which the States (or private persons) have heretofore acquired and now hold vested rights.

Fallacy No. 2.—Senate Joint Resolution 13 is needed to clear States' title to lands underlying navigable inland waters.

Fact No. 2.—States' titles to lands underlying navigable inland waters unquestioned.

Rights of States to lands beneath inland waters raised only to confuse issue

Lands underlying inland navigable waters are definitely not involved in this controversy. Lands beneath open ocean and navigable inland waters constitute entirely separate and different problems. The proponents of general quitclaim legislation have deliberately confused the two issues in an effort to gain the support of the 45 States who stand to gain nothing and lose much if the rights of the Federal Government in the Continental Shelf are given away to California, Texas, and Louisiana.

The backers of general quitclaim legislation declare that the recent decisions of the Supreme Court in the Continental Shelf cases threaten the States' titles to submerged lands beneath navigable inland waters. But as the then Solicitor General of the United States has pointed out, "these decisions do not apply to inland navigable waters of any kind. They apply only to the areas in the international domain." The Attorney General of the United States and other Federal authorities have repeatedly affirmed that the States own the resources under navigable inland waters.

Great Lakes, harbors, beaches, etc., are inland waters.—The propaganda supporting quitclaim legislation benefiting three coastal States has been directed especially to the States bordering the Great Lakes, and to States such as New York, Massachusetts, and Florida which have extensive harbor developments on filled land. The numerous Supreme Court decisions and statements by Federal officials specifically declaring such areas "inland waters" have been ignored or misinterpreted.

Supreme Court decisions protect rights of States to lands beneath inland waters

The Supreme Court has held plainly and unequivocally in at least 23 decisions between 1842 and 1935 that the respective States own the beds of all navigable inland waters, such as lakes, rivers, and bays, situated within their boundaries. There has never been a single exception to this general rule of constitutional law. The United States does not and never has challenged the ruling in these decisions. There is no basis for such a challenge.

Court decisions have broad scope, geographically and in types of submerged lands.—The court decisions holding that the States own the beds of navigable inland waters cover a wide geographical area, from New York on the east to California on the west, from Michigan on the north to Alabama on the south. They apply to such widely diverse types of submerged lands as the beds of Raritan Bay in New Jersey, the North River in New York City, Lake Ontario in New York State, Chesapeake Bay in Maryland, the Ware River in Virginia, the Mobile River in Alabama, Lake Michigan in Illinois, St. Mary's River

in Michigan, the Fox River in Wisconsin, Mud Lake in Minnesota, the Mississippi River in Minnesota, in Iowa, and in Illinois, the Snake River in Idaho, the Grand, Green, and Colorado Rivers in Utah, Lake Union and Lake Washington in Washington, the Columbia River in Oregon, the Sacramento River in California, and San Francisco Bay. In addition, Long Island Sound and Puget Sound have been determined to be inland waters.

Titles of States to inland navigable waters not clouded by Supreme Court decisions in Continental Shelf cases.—As recently as 1950 the Supreme Court expressly referred to its earlier decisions on this point and reaffirmed them. In the case of *U. S. v. California* (332 U. S. 19), the Court held that the States are possessed of "ownership of lands under inland navigable waters such as rivers, harbors, and even tidelands down to the low-water mark."

Moreover, the sense in which the Court used the term "paramount rights" in the California case was a confirmation of earlier decisions that the States have title to lands beneath inland navigable waters. The Court stated that if, as it had held in many earlier cases, the States have paramount rights in the beds of navigable inland waters, the same reasoning leads to the conclusion that the United States has paramount rights in lands beneath the open sea by virtue of the international interests and responsibilities which the Constitution entrusted to it.

Supreme Court decisions specifically protect rights of States to lands beneath Great Lakes.—The Supreme Court has twice held explicitly that the Great Lakes are inland seas and that the States bordering on them own the portions of the beds of the Great Lakes that are situated within their respective boundaries.

In the case of *Illinois Central Railway v. Illinois* (146 U. S. 387 (1892)), the Court held that the State of Illinois owned the bed of Lake Michigan in trust for the people of the State and that the State legislature could not make a valid conveyance of the bed of Lake Michigan to the railroad. The Court stated: "These lakes possess all the general characteristics of open seas, except in the freshness of their waters, and in the absence of the ebb and flow of the tide. In other respects, they are inland seas * * *." [Emphasis supplied.]

In the case of *Mass. v. N. Y.* (271 U. S. 65 (1926)), where a lake with an international boundary line was involved, the Court ruled that the bed of Lake Ontario lying within the boundaries of New York State belongs to the State of New York to the international boundary line.

These two cases are applicable to other States bordering the Great Lakes and indicate that each of them has clear title to the bed of that portion of the Great Lakes within its boundary.

Statements by officials of Federal Government define inland waters and reaffirm rights of States to lands beneath inland waters

The Government brief filed by the United States in the case of *U. S. v. California* (332 U. S. 19 (1947)):

No claim is here made to any lands under ports, harbors, bays, rivers, lakes or any other inland waters * * *.

Philip Perlman, Solicitor General of the United States July 1947 to August 1952:

The decisions (of the Supreme Court in the Continental Shelf cases) do not apply to inland navigable waters of any kind. They apply only to the areas in

the international domain * * *. The decisions do not apply, for instance, to any of the Great Lakes, which are inland waters, and which only can be reached through inland waters.

Attorney General, now Justice of the Supreme Court, Tom Clark:

My understanding is that the Great Lakes are considered inland waters and no contention has been made by anyone that a marginal sea exists there. The present suit (California) therefore raises no question as to title to lands beneath the Great Lakes.

Mastin White, former Solicitor of Department of Interior:

It is difficult to understand how any lawyer who has really studied the decisions of the Supreme Court relative to submerged lands could entertain a bona fide belief that any cloud exists on the titles of the States to the beds of such inland waters * * *.

I do not have the slightest doubt with respect to the complete validity of the titles held by the respective States bordering on the Great Lakes to the beds of those portions of the lakes within their respective boundaries.

Jack Tate, Deputy Legal Adviser, Department of State:

The position of the United States is that the waters of bays and estuaries less than 10 miles wide—or which are at the first point above such opening, less than 10 miles—are inland waters of the United States * * *. Certain historic bays in which the opening may be more than 10 miles, are recognized as inland waters, e. g., Chesapeake and Delaware Bays * * *.

S. W. Boggs, Special Adviser on Geography, Department of State:

I would say that all of them (the Great Lakes)—Michigan of course is entirely in the United States—are inland seas, wholly territory of either the United States or of Canada * * *.

All bills dealing with offshore submerged lands clearly recognize rights of States to lands beneath inland navigable waters

The States and the Federal Government agree that the United States has no claim to submerged lands beneath inland navigable waters. There is no argument on this point between the proponents and opponents of general quitclaim legislation.

S. 107 as well as Senate Joint Resolution 13 confirms titles and ownership in the States of the lands and their mineral resources beneath inland navigable waters, including lands beneath the Great Lakes, in New York Harbor and other harbors, and in the Chesapeake Bay and other historic bays. All three bills agree that the States, or persons claiming title under the States, own filled-in, made, or reclaimed lands in harbors and other navigable inland waters, and the structures and developments thereon.

Previous bills confirming rights of States to submerged lands beneath inland navigable waters blocked in committees

There have been many attempts to clarify the issues involved in submerged coastal lands legislation. The most evident of these has been the attempted division of the question of submerged lands beneath inland navigable waters from that of submerged lands lying off the sea coasts of the United States. Bills dealing exclusively with the question of land beneath inland navigable waters have been introduced beginning with the 80th Congress when S. 2222 was introduced for the administration by the then Senator Barkley. In the 81st Congress S. 2153 was introduced, in the 82d Congress Senators O'Mahoney and Anderson again attempted to divide this question by introducing S. 1540, and finally in the 83d Congress Senator Anderson and 17 other Senators have introduced S. 1292, designed specifi-

cally to confirm title to inland waters to the States and using the very language of bills supported by attorneys general of several States to make certain there can be no doubt of the validity of the confirmation.

The United States Government has always been willing to expressly waive any claims it might have, although it has asserted none, to the submerged lands beneath inland navigable waters. However, the proponents of the general "tidelands" quitclaim bills have consistently prevented these two questions from being divided, and have blocked the passage of these bills because if such a bill were passed it would completely destroy their arguments against the position of the Federal Government.

Fallacy No. 3.—The coastal States own the offshore oil lands in the Continental Shelf.

Fact No. 3.—The States do not own these lands.

The Supreme Court's decrees stated unequivocally that the coastal States do not own any lands in the Continental Shelf.

The premise of Senate Joint Resolution 13 is that the United States ought to "confirm" the "titles" of the several coastal States to those portions of the Continental Shelf lying inside the historic seaward boundaries of the States. In accordance with this theory, witnesses appearing before the committee on behalf of the coastal States frequently asserted their belief that the States own such portions of the Continental Shelf, together with the oil and gas deposits and other resources contained in such lands, and that the purpose of this legislation is to make more certain the States' rights of ownership in these Continental Shelf lands.

Such an approach to the problem is completely unrealistic and wholly unsound. The decrees that were entered by the Supreme Court in the three Continental Shelf cases against California, Louisiana, and Texas show clearly, in the plainest possible language, that the respective coastal States do not own the lands of the Continental Shelf within their seaward boundaries.

For example, the decree in the *California case* (332 U. S. 804) states categorically (p. 805) that, with regard to the lands, minerals, and other things underlying the Pacific Ocean to the seaward of the ordinary low-water mark on the coast of California, and outside the inland waters of that State, "The State of California has no title thereto or property interest therein."

Similar unequivocal language was used by the Supreme Court in the decrees which it entered in the *Louisiana case* (340 U. S. 899) and in the *Texas case* (340 U. S. 900). The Court asserted with complete clarity that the States of Louisiana and Texas do not have any title to or property interest in the submerged lands of the Continental Shelf extending seaward from their respective coastlines.

The Supreme Court's decisions show that the coastal States have never had any rights of ownership in the Continental Shelf

In the first of the Continental Shelf cases, *United States v. California* (332 U. S. 19 (1947)), the Supreme Court had occasion to review generally the problem of whether the coastal States had ever held any rights in the portions of the Continental Shelf situated within their respective seaward boundaries. The State of California contended in that case that the Thirteen Original States, upon attaining their

independence from Great Britain, acquired from the British Crown the title to all lands underlying navigable waters within their respective boundaries, including a 3-mile belt of marginal sea contiguous to their coasts; that such submerged lands were not transferred from the Thirteen Original States to the Federal Government at the time of the adoption of the Constitution of the United States, but were retained by the Thirteen Original States; and that, since California was admitted to the Union as a State on an equal footing with the original States, California at that time became vested with the title to all lands underlying the 3-mile belt of marginal sea along its coast.

In disposing of this contention, the Supreme Court said (pp. 33-35) that at the time when the Thirteen Original States became independent there was no settled international custom or understanding among nations to the effect that each maritime nation owned a 3-mile marginal belt in the open sea adjacent to its coast; that such an idea was then but a nebulous suggestion; that, shortly after the adoption of the Constitution of the United States, officials of the Federal Government became interested in establishing national dominion over a definite marginal zone in the open sea contiguous to the coast of the United States, for the purpose of protecting this country's neutrality; and that, largely as a result of efforts by officials of this Nation, the idea of a definite 3-mile belt of marginal sea in which a maritime nation can exercise broad, if not complete, dominion has been generally accepted throughout the world.

Hence, the Court concluded in the California case that it was the Federal Government, and not the Thirteen Original States, that initially acquired the belt of marginal sea contiguous to the coast of this country; and, accordingly, that the "equal footing" doctrine did not result in the transfer to California from the United States, at the time of the admission of California into the Union, of title to the bed of the marginal sea contiguous to the California coast. The Supreme Court adhered to this view in the decision which it subsequently rendered in the Continental Shelf case of *United States v. Louisiana* (339 U. S. 699 (1950)).

In the decision which it rendered in the third Continental Shelf case, *United States v. Texas* (339 U. S. 707 (1950)), the Supreme Court assumed that, prior to the admission of Texas into the Union through the process of annexation, the Republic of Texas had held rights in the portion of the Continental Shelf lying between the Texas coastline and the seaward boundary of the Republic of Texas. The Court held, however, that when Texas came into the Union she became a sister State on an equal footing with all the other States, which entailed the transfer to the United States of the national external sovereignty which had theretofore been exercised by the Republic of Texas; and that, as an incident of the transfer of such sovereignty, any rights that the Republic of Texas may have held in the bed of the marginal sea lying inside its seaward boundary were transferred to the United States.

Therefore, the Supreme Court's decisions in the three Continental Shelf cases make in plain that the coastal States, as such, have never held any rights in the submerged lands of the Continental Shelf situated inside their respective seaward boundaries. This is true of the Thirteen Original States, of the States created out of Federal

territory and admitted into the Union after independence, and of the State of Texas, admitted into the Union through the process of annexation.

The Congress cannot "restore" to the coastal States the Continental Shelf lands within their historic seaward boundaries

The contention that the enactment of Senate Joint Resolution 13 would merely "restore" to the coastal States the lands of the Continental Shelf situated inside their historic seaward boundaries is a striking example of the type of sophistry which has too often beclouded the consideration of this problem.

Since, as we have heretofore seen, the coastal States—whether they be the Thirteen Original States, or States created out of Federal territory, or the State of Texas—have never owned or had any rights in the submerged lands of the Continental Shelf lying inside their historic seaward boundaries, it is impossible for the Congress to "restore" such lands to the coastal States.

Consequently, the Congress ought to consider this legislation in the light of what it would actually do, i. e., make an outright gift to the coastal States, particularly the States of California, Louisiana, and Texas, of extremely valuable lands and mineral resources which they have never owned and which, instead, have been, and are now, assets of all the people of the United States.

Fallacy No. 4.—Texas has a special "historical" claim to the submerged lands of the marginal sea extending 3 leagues into the Gulf of Mexico.

Fact No. 4.—Texas has no special claims—historical or constitutional.

Although the Supreme Court has clearly ruled that the State of Texas has never had any claim to the submerged lands off its coast, within either the 3-mile or 3-league limits, the issue was raised in the hearings on Senate Joint Resolution 13 as to the so-called "historical claim" of Texas to 3 leagues into the Gulf of Mexico. The Texas boundary claims were thoroughly documented in the Texas brief before the Supreme Court. The Court ruled that these boundary claims were irrelevant to the question which was before it. Texas, as with California and Louisiana, has succeeded in confusing many with the idea that "boundary" and "ownership" are the same things. It should be understood that no matter where the boundary line may be, all rights in submerged lands from the low-water mark belong to the United States, and no State has any rights in such areas. The Texas claim has long been clouded with many false assumptions, and the following presents the facts and the law concerning this boundary.

The following key facts relating to the special boundary claims put forth by the State of Texas are thoroughly explained and documented in appendix D of this report:

(1) The existence of an independent Republic of Texas before the State entered the Union has no bearing on the boundary question. Texas was admitted to the Union by an act of admission, not a treaty, on an "equal footing" with the other States. (2) The submerged lands off the shores of Texas were not part of the "public lands" retained by Texas in the act of admission. (3) The Treaty of Guadalupe

Hidalgo did not establish the seaward boundaries off the coast of Texas in the Gulf of Mexico. (4) 1848 and 1850 Boundary Acts established the eastern and southern boundaries of the State of Texas as running along the Sabine and Rio Grande Rivers "to the Gulf of Mexico." (5) The recognition of a special "historical claim" to 3 leagues of territorial water off the State of Texas will lead to "historical limit" claims by many other coastal States.

VII. THE "GIVE-AWAY" LEGISLATION WOULD WEAKEN THE SECURITY OF THE UNITED STATES

Oil is a key to national defense

We need more oil.—Our current production of petroleum from domestic sources is approximately 6.5 million barrels per day. We are currently consuming approximately 7.5 million barrels per day. It is estimated that consumption will approach the rate of 8 million barrels per day during calendar year 1953. The United States is currently importing approximately 1 million barrels per day of oil in order to meet current consumption requirements.

How much can production be expanded?—It is estimated that production from domestic facilities could be expanded approximately 12 percent during a period of emergency. Application of simple arithmetic indicates that our domestic facilities, if expanded to their maximum capacity, would produce at best only sufficient crude oil to take care of normal requirements. No margin will remain for the vastly increased amounts of petroleum which would be required in the event of total mobilization.

Mobilization requirements are great.—Specific figures concerning the requirements of petroleum in the event of total mobilization are classified. It has been estimated, however, by competent authorities that the overall requirements of petroleum in the event of mobilization will exceed the then normal requirements by a minimum of 15 percent. A 25-percent expansion of production potential would be desirable in order to insure that a total defense effort would not fail for lack of adequate petroleum supplies.

Sources of additional oil are limited.—Additional oil, which must be provided in the event of total mobilization, must be procured either by increasing imports or by the creation of a standby production reserve of domestic facilities, which could be placed in production within a short period of time. The major source of oil for import is the Middle East area. The vulnerability of this source of supply in the event of mobilization cannot be overemphasized. Dependence upon oil imports does not contribute to sound defense planning. The only sound alternative is to increase the production potential from domestic sources so as to make possible a rapid expansion of production in the event of a national emergency.

In discussing this problem, the 1952 Materials Policy Commission indicated as follows:

The security problem in oil can be viewed realistically only in terms of total free-world demand and total free-world supply. The outbreak of all-out war would create a sudden, and probably wide, gap between requirements and current supply for the United States and other free nations alike—particularly for naval and specialized aviation fuels. Enemy action could well curtail production or cut off rich sources.

Severe rationing of nonmilitary use would fall far short of closing the gap even with much stricter reductions than in the last war. There can be no conventional

stockpile of oil to fall back on. Therefore, the equivalent of a stockpile—an emergency cushion of oil production, refining, and transportation capacity in the Western Hemisphere which can quickly increase supply—is imperative in meeting the problem (Materials Policy Commission report, vol. I, ch. 17, p. 109, col. 2). (See Appendix B.)

The Continental Shelf is a vitally needed oil reserve.—The potential oil reserves of the submerged-land areas represent one of the richest accessible sources of supply susceptible to exploratory development. The Materials Policy Commission recommended:

That the Federal Government encourage immediate exploration for oil on publicly owned offshore lands; that leases to private companies, whether by the Federal Government or the States, contain provisions requiring well spacing or withdrawal rates calculated to increase the normal life of the pools with a view to providing faster withdrawals if ever such action is required to meet the needs of war. (Materials Policy Commission report, vol. I, ch. 17, p. 110, col. 2.)

The urgency of discovering and bringing oil resources to the point of production in case of emergency may well make it advisable for our Government to start that work at once. But it would certainly be folly for the United States to dispossess itself—to quitclaim away—a vital resource to which its legal title has been upheld by the highest Court in the land, without first being completely assured that its retention is not essential to any potential defense emergency.

Give-away legislation neglects development of oil outside the so-called historic State boundaries

Senate Joint Resolution 13 provides in section 9, as follows:

Nothing in this Joint Resolution shall be deemed to affect in any wise the rights of the United States to the natural resources of that portion of the subsoil and seabed of the Continental Shelf lying seaward and outside of the area of lands beneath navigable waters as defined in section 2 hereof, all of which natural resources appertain to the United States, and the jurisdiction and control of which by the United States is hereby confirmed.

Senate Joint Resolution 13 provides no program for the development of that portion of the Continental Shelf lying seaward of State boundaries, whatever they may happen to be. Of the total estimated oil reserve in the entire Continental Shelf, it is estimated that 80 percent is located seaward from the areas claimed by the States to be within their historical boundaries. No administrative machinery is established to govern the development of these vital reserves either by the Federal Government or by the coastal States. Failure to provide for the overall development of the entire Continental Shelf will seriously jeopardize the necessary expansion of our production potential essential for national defense.

Give-away legislation would retard the development of oil within the so-called historic boundaries of the coastal States

Orderly uniform development essential.—Approximately 5 years are required to develop a normal oilfield, after initial exploratory work has indicated the presence of oil. Estimates as to the length of time that would be required to develop oil reserves on submerged land vary. All authorities agree, however, that a considerably longer period of time will be required to develop such resources than is required to develop a normal field. Under such circumstances, it is essential that the development of the submerged areas proceed rapidly and in as orderly a manner as possible.

Clouded issues would foster endless litigation.—The majority apparently are of the opinion that passage of Senate Joint Resolution 13

will operate to terminate legal controversy so as to allow full-scale development of submerged lands within so-called historical boundaries of States. Such is far from true. On the contrary, passage of Senate Joint Resolution 13 will result in endless litigation. As pointed out elsewhere in this report, there are serious constitutional objections to Senate Joint Resolution 13.

Senate Joint Resolution 13 provides that title to and ownership of all submerged land extending seaward to the boundary line of the respective States shall be vested in the States. Senate Joint Resolution 13 makes no attempt to identify the physical location of such State boundaries other than to provide that they be such as existed at the time a State entered the Union or such as might have heretofore been or hereafter be approved by Congress. Under the provisions of Senate Joint Resolution 13 it would be practically impossible to determine whether any given point lies within or without the area in which this resolution attempts to vest title in the States. Unless the area to be placed under State jurisdiction is clearly identified, State leasing authorities will be unable to enter into these contracts as to any specific area without facing the probability of endless court action to determine the line of demarcation.

The attorney general of the State of Louisiana in his testimony before the committee indicated that leasing officials of his State are unable to determine what specific area lies within or without State jurisdiction under the decree of the Supreme Court in the Louisiana case.

In further recognition of this problem the Attorney General of the United States in his testimony before the committee indicated that any legislation transferring to the States any rights in and to the submerged-land areas should specify a clear line of demarcation delineating the physical location of the boundary of such areas.

Under the language of Senate Joint Resolution 13 endless controversies will result. The oil industry will be reluctant to lease and develop any specific area when doubt exists whether the area to be covered by the lease is under Federal or State jurisdiction. Such doubt will not contribute to orderly development of the submerged-land oil resources.

VIII. THE "GIVE-AWAY" LEGISLATION WOULD ENCOURAGE EXTRA- GANT BOUNDARY CLAIMS OF RUSSIA AND OTHER NATIONS

The Government of the United States has a traditional policy of protesting claims made by other nations to areas of the marginal sea extending beyond 3 miles from the low-water mark. The basic reason for not recognizing claims extending beyond 3 miles has been that the United States as a great naval, air, and maritime power must maintain freedom of the high seas and the air lanes which pass above it.

The Soviet Union today claims a strip of territorial sea extending 12 miles from its shores. Mexico claims a boundary extending 9 miles from its shoreline. Ecuador claims exclusive fishing rights within 15 miles of its coast and Iran claims 6 miles into the strategic Persian Gulf. The dangers inherent in these extensive claims are most evident in the recent claim by Chile to complete national sovereignty over 200 miles of the adjacent sea. (For a full listing of claims and a discussion of this problem see Boggs, W. W., *National Claims in Adjacent Seas*, Geographical Review, vol. XLI, No. 2, April 1951.)

Any extension of boundaries of the United States beyond the 3-mile limit would undermine our traditional policy of maintaining the freedom of the high seas. Assistant Secretary of State Thruston B. Morton, in a letter of March 4, 1953, to Chairman Hugh Butler of the Senate Committee on Interior and Insular Affairs stated:

* * * Likewise, if this Government were to abandon its position on the 3-mile limit it would perforce abandon any ground for protest against claims of foreign states to greater breadths of territorial waters. Such a result would be unfortunate at a time when a substantial number of foreign states exhibit a clear propensity to break down the restraints imposed by the principle of freedom of the seas by seeking extensions of their sovereignty over considerable areas of their adjacent seas. A change of position regarding the 3-mile limit on the part of this Government is very likely, as past experience in related fields establishes, to be seized upon by other states as justification or excuse for broader and even extravagant claims over their adjacent seas. Hence a realistic appraisal of the situation would seem to indicate that this Government should adhere to the 3-mile limit until such time as it is determined that the interests of the Nation as a whole would be better served by a change or modification of policy. [Emphasis supplied.] (See appendix C.)

United States cannot protect any State claims beyond 3-mile limit

As stated in the Report of Special Master, in the case of *U. S. v. California* (October term, 1952):

* * * the exterior limits of the marginal belt * * * involves a question of the territorial jurisdiction of the United States as against foreign nations; i. e., a question of external sovereignty.

It is inconceivable that a single State taking unilateral action through its legislature to extend its seaward boundaries beyond the traditional 3-mile limit could bind the Government of the United States in its dealings with foreign nations. The interests of any single State in matters of foreign relations must not take precedence over the interests of the Nation as a whole.

It is clear that the territorial waters boundary of a State and the Nation are indivisible. Mr. Jack Tate, testifying on behalf of the Department of State, stated before the Senate Committee on Interior and Insular Affairs on March 3, 1953, that—

* * * in international relations the territorial claims of the States and of the Nation are indivisible. The claims of the States cannot exceed those of the Nation.

It cannot be argued that this legislation would affect only territorial water claims of a small portion of the United States entire coastline. If Congress takes legislative action to recognize extensions of territorial waters beyond the 3-mile limit off the coast of one State, it is probable that other coastal States will advance similar claims and petition the Congress to recognize these claims, especially if jurisdiction over and rights in the submerged lands are to follow boundary lines.

Specific provisions of Senate Joint Resolution 13 were attacked by the Department of State when it said:

It is the view of the Department, therefore, that the proposed legislation should not support claims of the States to seaward boundaries in excess of those traditionally claimed by the Nation; i. e., 3 miles from the low-water mark on the coast. This is without reference to the question whether coastal States have, or should have, rights in the subsoil and sea bed beyond the limits of territorial waters. (Letter to Butler, op. cit.)

The use of any specific terminology such as "historic boundaries" or "boundaries at the time the State entered the Union" will only confuse and complicate the continuance of a uniform and sound policy of

territorial water claims the United States supports with regard to foreign nations. In the first place, it is not at all clear what validity there is in so-called historical boundaries advocated by the States of Texas, Louisiana, and Florida. The determination of these claims may involve years of litigation. Secondly, it is perfectly obvious that many coastal States may advance "historical claims" on the basis of their colonial charters, early State statutes, or constitutions (appendix D). Where these claims would lead us no one can tell.

United States boundary claim has always been limited to 3 miles

In 1793, the then Secretary of State, Mr. Thomas Jefferson, wrote to the British Minister that—

The character of our coast, remarkable in considerable parts of it for admitting no vessels of size to pass near the shores, would entitle us, in reason, to as broad a margin of protected navigation as any nation whatever. Reserving, however, the ultimate extent of this for future deliberation, the President gives instructions to the officers acting under his authority to consider those heretofore given them as restrained for the *present to the distance of one sea league or three geographical miles from the seashores.* * * * (Jefferson, Secretary of State, to Hammond, British Minister, Nov. 8, 1793; see also letter to French Minister, appendix C).

The 1875 Secretary of State Hamilton Fish wrote the British Minister in Washington that—

We have always understood and asserted that, pursuant to public law, no nation can rightfully claim jurisdiction at sea beyond a marine league from its coast.

Secretary of State Bayard wrote to Secretary of the Treasury Manning on May 28, 1886, stating:

We may therefore regard it as settled that, so far as concerns the eastern coast of North America, the position of this Department has uniformly been that the sovereignty of the shore does not, so far as territorial authority is concerned, extend beyond three miles from low-water mark * * *.

In reply to a letter from Senator Connally of Texas, Mr. James V. Webb, then Under Secretary of State, answered the Senator's questions on the extent of United States claims to territorial waters by quoting from the Supreme Court of the United States in the case of *Cunard S. S. Co. v. Mellon* (262 U. S. 100), to illustrate the Department's position:

It now is settled in the United States and recognized elsewhere that the territory subject to its jurisdiction includes the land areas under its dominion and control, the ports, harbors, bays and other enclosed arms of the sea along its coast and a marginal belt of the sea extending from the coast line outward a marine league, or three geographic miles.

The most recent declaration of this firm and unwavering policy came in the letter to Senator Butler (op. cit.) when the Department of State replied:

Pursuant to its policy of freedom of the seas, this Government has always supported the concept that the sovereignty of coastal States in seas adjacent to their coasts (as well as the lands beneath such waters and the air space above them) was limited to a belt of waters 3 miles width, and has vigorously objected to claims of other States to broader limits.

The decision of the International Court of Justice in the Norwegian Fisheries case (*U. K. v. Norway*, December 18, 1951) has not changed the position of United States. This case was decided on very special grounds and was interpreted by Mr. Jack Tate, legal adviser of the Department of State, in his testimony as follows:

Mr. TATE. * * * The Norwegian Fisheries case has caused a great deal of discussion as to what it stands for. The northern coast of Norway that was involved in that case is a very cut-up coast. It is jagged, with little islands and rocks all over. It is what is known as the Skjaergaard.

The Court in the Norwegian Fisheries case sustained the claims of Norway. It did it, as I read the case, on three grounds: One, the nature of the coast; two, the historical claims of Norway, acquiesced in by other countries; and three, the economic interests of the coastal states. On that basis it justified the claims of Norway.

I am not sure how far that case goes in its applicability to other situations that are not comparable with the Norwegian situation. I do not know of any part of the coast of the United States that is comparable to that section of the Norwegian coast known as the Skjaergaard. Possibly part of the southern coast of Alaska and the Aleutians might fit into that same sort of situation.

The historical situation is different as far as this country is concerned, and of course the economic situation varies. The Court did say in that case that the 10-mile rule was not firmly established as international law in such a way as to prevent its application to Norway under these circumstances. I cannot myself say that the 10-mile rule that has been adhered to by this country is required by international law. It certainly is not prohibited by international law.

Freedom of high seas has been United States policy

There is no question that the United States has traditionally been a firm advocate of freedom of the high seas. Any policy change which would place the United States in a position of limiting free access to wide expanses of the high sea would be most detrimental to our national interests. Not only would this action lead to the closing of water and air routes now open to our naval and air defense craft, it would seriously hamper our fishing industry and commercial maritime activity.

In 1952 the Department of State called together an ad hoc Inter-departmental Committee on Foreign Waters to assess the benefits and detriments which might result from the extension of broad claims to the territorial sea off the coast of the United States. This Committee was composed of representatives of the Departments of Defense, State, Justice, Interior, and Commerce. It is more than evident from the letters and records of this Committee that any extension of territorial waters would be most detrimental to United States interests. A letter from the Secretary of the Navy to the Secretary of State (June 20, 1952), on this subject sets forth several areas which are now open to United States naval vessels which might be closed if the United States wavers from its traditional policy of a 3-mile limitation on territorial waters.

The effects on the fishing industry are discussed in section X of this report.

Recent incidents involving the shooting down of American aircraft off the coasts of the Soviet Union or Soviet-occupied territories, indicate the importance of maintaining the doctrine of freedom of the high seas and the air space above them. The United States will be in no position to protest further such incidents, or press past protests if the policy of our Government should now be changed.

1945 Presidential proclamation carefully protected 3-mile limit

The 1945 Presidential proclamation setting forth the "policy of the United States with respect to the natural resources of the subsoil and seabed of the Continental Shelf" was carefully phrased so as to avoid any confusion that might arise concerning the intent of the Government of the United States to change its policy with regard to the freedom of the seas.

The United States considers the natural resources of the subsoil and the seabed of the Continental Shelf contiguous to the coasts of the United States to be subject to its jurisdiction and control:

The character as high seas of the waters above the Continental Shelf and the right to their free and unimpeded navigation are in no way thus affected (*ibid.*).

Several other nations have followed the policy of the United States with regard to the Continental Shelf adjacent to their coasts, but in a number of instances have failed to limit their claims to the subsoil and seabed, but rather extended jurisdiction over the seas to the edge of the Continental Shelf. A summary of these claims is included in the article "National Claims in Adjacent Seas," by S. W. Boggs (*op. cit.*).

Any attempt to extend the boundaries of the United States or any of its constituent States to the edge of the Continental Shelf would result in the most serious problems involving the freedom of the seas. The careful wording of the 1945 Presidential proclamation has protected the interests of the United States to date. Deviations from this would not be acceptable.

The State of Texas recently claimed that it had "full and complete ownership (over) the waters of the Gulf of Mexico * * *" including all lands that are covered by said waters from the shoreline to the "farthestmost edge of the Continental Shelf." This action was taken by the Legislature of the State of Texas in 1941 and 1947 (act of May 16, 1941, May 23, 1947). The recognition of such an extravagant claim by the Congress would not only involve the United States in serious problems with other nations, but would place the State of Texas in a position of dictating to the Federal Government matters which are clearly outside the constitutional jurisdiction of the State of Texas. For as in the California opinion (332 U. S. at 35) the Court stated:

whatever any nation does in the open sea, which detracts from its common usefulness to nations, or which another nation may charge detracts from it, is a question for consideration among nations as such and not their separate governmental units. What this Government does, or even what the States do, anywhere in the ocean, is a subject upon which the Nation may enter into and assume treaty or similar international obligations."

The Supreme Court in the decree in the *Texas* case (340 U. S. 900) settled this issue by stating:

The United States of America is now, and has been at all times pertinent hereto, possessed of paramount rights in, and full dominion and power over, the lands, minerals, and other things underlying the Gulf of Mexico, lying seaward of the ordinary low-water mark on the coast of Texas, and outside of the inland waters, extending seaward to the outer edge of the Continental Shelf and bounded on the east and southwest, respectively, by the eastern boundary of the State of Texas and the boundary between the United States and Mexico. The State of Texas has no title thereto or property interest therein.

IX. THE "GIVE-AWAY" LEGISLATION WOULD HALT THE GOVERNMENT'S PROGRAM FOR THE MULTIPLE-PURPOSE DEVELOPMENT OF THE WATER RESOURCES IN THE NATION'S NAVIGABLE RIVERS

Subsection (a) of section 6 of this measure declares, in effect, that the Federal Government's power under the commerce clause of the Constitution (art. I, sec. 8, clause 3) shall not be deemed to include the right to use lands beneath navigable waters.

If this provision should be enacted, it would (assuming its constitutionality) halt the Government's program for the multiple-purpose development of the water resources of the Nation's navigable rivers in order to improve navigation, control floods, impound water for the irrigation of arid lands, and generate electric power for agricultural, industrial, and domestic uses.

The development by the Federal Government of the water resources in our navigable rivers for the purposes previously mentioned—a program that is vital to the prosperity and welfare of the Western States and is also highly important to other parts of the country—is carried on pursuant to the Government's "great and absolute" power under the commerce clause of the Constitution (*United States v. Chandler-Dunbar Company*, 229 U. S. 53, 62 (1913); *United States v. Appalachian Power Company*, 311 U. S. 377, 426 (1940)). That constitutional power includes the right to use the beds of navigable rivers as sites for the dams and other structures that are needed for the furtherance of the multiple-purpose program of water resources development, even though the legal title to such submerged lands is vested in the States through which the navigable rivers run (*Lewis Blue Point Oyster Co. v. Briggs*, 229 U. S. 82, 88 (1913); *James v. Dravo Contracting Co.*, 302 U. S. 134, 140 (1937)). The legal title of the owner of the bed of a navigable river is servient to the right of the Government to use the bed of the stream for structures incident to the exercise by the Government of its power under the commerce clause of the Constitution (*United States v. Chandler-Dunbar Co.*, supra (at p. 62)).

Therefore, in declaring that the Federal Government's power under the commerce clause of the Constitution shall not hereafter be deemed to include the right to use the beds of navigable rivers, this measure undertakes to reverse the Supreme Court with respect to a well-established principle of constitutional law, and thereby to halt the Federal Government's multiple-purpose program of water resources development for navigation, flood control, irrigation, and electric power. Obviously, that program cannot be carried forward unless the Government can use the beds of navigable rivers for the dams and other structures essential to it.

X. THE "GIVE-AWAY" LEGISLATION WOULD IMPERIL THE UNITED STATES FISHING INDUSTRY

Legislation proposing to convey offshore oil resources to the several States by quitclaiming all rights within so-called historic boundaries constitutes a multiple threat to the United States fishing industry.

The industry is dependent on fisheries in the high seas contiguous to foreign nations for more than half the value of its production.

Millions invested in United States fishing industry

In 1952 its offshore catch was valued at \$325 million and in 1951 at \$345 million.

Processing, transportation and marketing tripled these values to more than \$1 billion annually, and gave employment not only to 170,000 fishermen and 100,000 shore workers engaged in processing, but to some 300,000 persons engaged in closely allied industries such as boat building, net making, manufacture of processing equipment

and containers, and other operations directly related to the fishing industry.

Estimates of those employed in the transportation and marketing of fisheries and products, of which the greater part are obtained from seas adjacent to foreign nations, are given in an article by Albert M. Day, Director of the Fish and Wildlife Service, published in the 1951 annual review number of the Fishing Gazette. He said:

About a million people—or as many as live in a city the size of Baltimore or Cleveland—are directly dependent to some degree on our fishery resources if we include the families of fishermen and shore workers.

It is these people and their livelihood that the proposed quitclaim or conveyance bill would imperil. Many of them are independent fishermen. Others are employed by small operators.

The 1950 catch was made from 10,500 fishing vessels of 5 net tons and over, 48,000 motor boats, and 34,000 other boats.

Valuation of the aggregate of the commercial fishery resources in 1950 has been estimated as follows:

To fishermen and boat owners.....	\$6, 843, 750, 000
To manufacturers and processors.....	1, 690, 225, 000
To wholesalers of fishery products.....	1, 296, 535, 000
To retailers of fishery products.....	2, 238, 546, 000
Total value.....	12, 069, 056, 000

The threat to Gulf Coast fisheries

An example of how United States fisheries can be affected by any divergency or presumed divergence from the 3-mile rule is the recent action taken by Mexican authorities in seizing United States shrimp boats.

An article on the subject in the March 5, 1953, issue of the Christian Science Monitor reads in part:

Mexican naval forces have seized 13 United States shrimp boats and some 50 fishermen charged with "poaching" for shrimp in Mexican waters. They were brought into the port of Campeche.

Earlier incidents of recent date involved the capture of 2 Brownsville, Tex., fishing boats and 9 crewmen at Tuxpan, and the seizure of 2 other vessels near Progreso.

Therefore, many "shrimp boats" are not "a-comin'" back to their home bases in Florida, Louisiana, and Texas—at least not immediately.

Individual tempers and international tensions rise as irate shrimp boat owners in Florida and other areas lodge complaints with the State Department in Washington. They hold that their boats did not violate international law.

The Mexican press, in similarly indignant tone, loudly protests against "foreign pirates" who are "stealing" one of Mexico's prized "natural resources."

This is only the latest flareup in international feeling over the lowly decapod crustacean. Disputes have been almost continuous since the war. Cubans and Honduran fishermen have also figured in Mexican charges * * *.

Also behind the dispute is a basic disagreement between the United States and Mexico over how far out from land territorial waters extend. Mexico claims 9 miles, but the United States adheres to the 3-mile limit generally, but not universally, agreed to.

Our Government must insist on the rights of United States fishermen to follow the traditional practice of obtaining fish or crustaceans from the high seas beyond the 3-mile zone wherever they may find them.

But such insistence will be difficult and final results uncertain if the Congress extends the Territorial waters of 3 States to 10½ miles seaward beyond the low tide line. How can our diplomats with good grace argue for adherence to the 3-mile limit by other nations while

bound to a 10¼-mile rule in waters adjacent to several American States?

Dr. W. M. Chapman, special assistant to the Under Secretary of State, told of the seizure "on the high seas off the coast of Mexico" of several United States shrimp trawlers by a Mexican coast guard vessel. Five trawlers were seized (two escaped), their cargoes confiscated, nets removed, and vessels threatened with confiscation until, on May 3, 1950, the United States consul, under protest, paid fines assessed by the Government of Mexico.

The United States vessels, as pointed out by Dr. Chapman, were fishing in an area in which they had been informed specifically by the Department of State that they, as citizens of the United States, had a right to fish without permission from, or molestation by, the Mexican Government or any other government save that of the United States.

Dr. Chapman concluded by saying:

The fishery for shrimp in the Gulf of Mexico has become one of our most rapidly growing and valuable fisheries. New banks are being discovered one after the other. The rapidly expanding fishery is moving south into the high seas contiguous to our neighbors to the south. It is known that large unused resources of shrimp lie farther south waiting the harvest and going to waste each year for want of it.

Thus if we permit the loss of our fisheries that now exist in the high seas contiguous to the coasts of foreign countries we lose the biggest half of our fishing industry at one stroke.

Even this, however, is not so serious as the fact that we would at the same time lose the right to expand these fisheries as this Nation's need for protein food and animal oils expands with our growing population.

The food resources of our land area are strictly limited. The vast food resources available in the sea are only now being realized as the result of ocean research programs which have been going on during and since the war. Undreamed of new technical means are being designed and put into use to harvest food resources not known to mankind before. The picture of harvesting food from the sea is changing with such rapidity that no man can tell today what shape or volume it will take next year or the years thereafter.

The threat to New England fisheries

Mr. John J. Real appeared before the Senate Interior and Insular Affairs Committee during its 1953 hearings on submerged lands to present the problems which will confront the United States fishing industry if legislation extending the boundaries of the United States should become law.

Mr. Real this year quoted from Dr. Chapman's testimony of May 25, 1950:

The great fisheries that have been prosecuted by New Englanders for 300 years lie for the most part in the high seas contiguous to the coast of Canada. All expansion that is anticipated lies in the direction of being farther and farther from our coasts, northward and eastward around the corner of Newfoundland and up Davis Strait past Greenland and Labrador.

It is important to note that New England fisheries take fish valued at nearly \$20 million from water off Nova Scotia and Newfoundland.

The threat to West Coast fisheries

Mr. Real further quoted from Dr. Chapman's testimony when he turned to the effect extension of our boundaries might have on the Pacific coast fishing industries:

The tuna fishery has become the most valuable marine fishery of the United States. *Nine-tenths of its yield comes from areas of the high seas which are contiguous to the 10 American Republics south of San Diego on the Pacific coast.* The fishery is still in a rapid state of expansion both volumewise and geographically.

*Nearly all sources of further expansion lie in the high seas off the coasts of other countries both in the Pacific and Atlantic * * *. [Emphasis supplied.]*

* * * In the Pacific Northwest we have valuable fisheries for salmon, halibut, various ground fish, albacore and other fishes in the high seas contiguous to British Columbia. Our Pacific fisheries are expanding outward into the multitudinous islands of Oceania, which are under the jurisdiction of many nations.

The value of the tuna pack has increased from \$19,397,887 in 1941 to a record peak of \$113,000,833. Tuna brought to California ports accounted for \$98,021,745 of this value; that brought to Washington, Oregon, or Hawaiian ports for \$12,623,184.

A preliminary review of landings at San Pedro, Calif., places the value of the catch brought to that port alone as \$38,000,000, and to the port of San Diego as \$17,000,000.

Salmon fisheries are also very important to the Pacific Northwest. A portion of the Puget Sound fishing fleet, consisting of some 200 boats and 1,500 fishermen, fish for salmon, halibut, and bottom fish off the coast of Canada, but outside the 3-mile limit. Value of the catch originating in waters off the Canadian coasts approximates \$7,500,000 annually. Much of this value is produced in the Hecate Straits between Queen Charlotte Island and the Canadian mainland. These straits vary in width to a maximum of 60 miles. Puget Sound fishermen are apprehensive that any deviation from our historical position on fishing rights will be an open invitation to Canada to extend its territorial waters.

Should Canada decide, on the basis of any action by this Congress, to extend its seaward boundary to 10½ miles, much of the present fishing grounds in this area would be excluded to our fishermen.

Periodically certain Canadians have threatened to close these banks to our fishing fleet, contending that the straits constitute inland waters and, as reported above, they were supported in effect by the Canadian Minister of Fisheries several years past.

The position of this Canadian official, incidentally, has no counterpart in the United States Government, rendering it even more difficult for our Government to protect our fishery industry.

A bill now before the Canadian Parliament would authorize the Governor of Canada to extend Canadian jurisdiction over any coastal waters whatsoever, irrespective of the 3-mile limit. One proposal would enclose all of Queen Charlotte Sound and Hecate Strait in the Pacific; another would include the entire Gulf of St. Lawrence.

How, United States fishermen ask, can the United States Government effectively or conscientiously protest extension of seaward boundaries by other nations, if the Congress grants American States jurisdiction over the high seas to a distance of 10½ miles seaward from their shores.

Passage of the quitclaim or conveyance bill will open a Pandora's box of international complications, foreseen by Associate Justice William O. Douglas in his majority opinion in *United States v. Texas* (339 U. S. 707). It stated in part:

Today the controversy is over oil. Tomorrow it may be over some other substance or mineral or perhaps the bed of the ocean itself.

And tomorrow the controversy, if this legislation is enacted, may be over the fish in the high seas, with foreign nations threatening the extinction of this industry, vital to the food supply of the Nation, and vital to the livelihood of a million United States citizens.

XI. THE "GIVE-AWAY" LEGISLATION WOULD SET OFF A CHAIN REACTION OF OTHER "GIVE-AWAYS" OF THE PUBLIC DOMAIN

Offshore oil cannot be considered as an isolated case. Many are pressuring for the Federal Government to give it away who have no direct interest in the coastal States or in oil alone, but who have a stake in the overall controversy. These are special interests who frankly see it as a first step in reversing a historic policy of public domain. Once we give away oil, the door is open to every special interest greedy for the Nation's wealth.

In the first half of the 20th century a great fight has been waged and won. The fight established the principle that the natural riches of our continent belonged to all the people. The victory had two aspects: a reversal of the wasteful exploitation that had seriously depleted the resources of the land and affirmation that benefits from the natural riches be distributed fairly among all our citizens.

We are involved in that very battle here. Offshore oil is a precious commodity, still unexploited, but limited in amount. The same is true of the natural gas beneath the sea waters. Carefully regulated extraction will make these treasures last longer and save great quantities from total dissipation through careless methods. As a Nation we learned the conservation lesson the hard way after losing many of our other precious resources. No provision whatever is made under the "give-away" bill for uniform, in fact for any protective regulation at all, of oil and gas extraction. We may be reminded what serious results this irresponsible attitude can bring by reviewing the sad lessons of our other resources. Before permitting the first step to be taken in giving over public wealth to special interests, it would be well for all to understand the meaning of the people's stake in our natural wealth.

One hundred and sixty million people own some 409 million acres of land in this country—just under one-fourth of our national area, and about 360 million acres in Alaska. The value of this land has been estimated at well over a trillion dollars.

Lands held in public trust to save the basis of our wealth

First let us remember just why we own this land, what the situation was when we allowed our natural riches to waste with startling rapidity by those who grabbed, spoiled, and ran.

By the turn of the century, for example, 800 million acres of original virgin forest had been reduced to 200 million. Erosion, rape of mineral resources, were the rule. To deal with the drastic situation Republican President Theodore Roosevelt set up an Inland Waterways Commission which reported to him in May 1907:

Hitherto our national policy has been one of almost unrestricted disposal of natural resources. * * * Three consequences have ensued:

- (1) The unprecedented consumption of natural resources.
- (2) Exhaustion of these resources, to the extent that a large part of our available public lands have passed into great estates or corporate interests.
- (3) Unequalled opportunity for private monopoly. (See appendix A.)

A year later President Theodore Roosevelt convened the governors of the States and said to them:

The occasion for meeting lies in the fact that the natural resources of our country are in danger of exhaustion if we permit the old wasteful methods of exploiting them longer to continue.

We are coming to recognize as never before the right of the Nation to guard its own future in the essential matter of natural resources. In the past we have admitted the right of the individual to injure the future of the Republic for his own present profit. This time has come for a change. As a people we have the right and duty * * * to protect ourselves and our children against the wasteful development of our natural resources (appendix A).

There was no dictation, no Federal mandate. The governors of the States themselves, realizing the seriousness of the depletion of our resources and their own inability to cope, issued at that time a declaration asking for help from the United States Government. They declared:

We agree that the sources of national wealth exist for the benefit of the people, and that monopoly thereof should not be tolerated. We declare the conviction that in the use of the natural resources our independent States are interdependent and bound together by ties of mutual benefits, responsibilities and duties * * *.

We especially urge on the Federal Congress the immediate adoption of a wise, active, and thorough waterway policy. We recommend the enactment of laws looking to the prevention of waste in the mining and extraction of coal, oil, gas and, other minerals with a view to their wise conservation for the use of the people and to the protection of human life in the mines.

Let us conserve the foundations of our prosperity (appendix A).

Let us today recall what might again come to pass, what once did come to pass when in 1908 all the States had to plead for a united policy against the loss of the basis of our national wealth. Let us guard against ill-considered inroads of our public lands. Let us not permit a few men in a hurry to persuade leaders from all the States to reverse a policy of conservation their own governors once requested with such urgency.

Public lands serve all the people

Forest lands.—There are about 160 million acres of national forest in the continental United States. An additional 20 million acres are located in Alaska. These are about one-fourth of all forestlands today. Instead of the waste that cut our virgin forests down to one-fourth in the early years of our Republic, we now have regulations that keep the land regularly reforested; as trees are cut down others must be planted. Moreover, the Federal Government puts up the large sums of money to build access roads into deep forests, which in turn permits small timber companies to share in the cutting, while the Government is repaid from their fees. Out cutting and replanting and access policies are improved, but nowhere near what they should be.

Grazing lands.—Some 230 million acres or about half of our continental Government owned lands serve for crop grazing. Regulations as to numbers of animals and seasonal directives preserve this land for continued good grazing. Constant rehabilitation preventing erosion, drought, etc., maintains this land in good order for the benefit of all cattlemen, large and small.

Minerals.—In the early part of the century Republican President William Howard Taft established a Bureau of Mines and withdrew from public sale considerable areas of oil, coal, and timberland. This began a policy that, in contrast to the overcentralized development of the coal mines in the hands of a few big interests, soon put under Federal regulation great values of minerals. It is estimated that today the Federal Government owns 111 trillion cubic feet of gas, 324 billion tons of coal, 4 billion barrels of oil, and 130 billion barrels of oil in

the form of shale. Such fuels must last us forever, and by regulation they are extracted with care from the earth. It was with luck we discovered that priceless uranium existed on public lands. No one would ask that all benefits of uranium, vital in atomic production, be turned over to special interests.

Power projects.—The Federal Government has put to work vast sums in harnessing power from the natural forces of our continent. Some \$3½ billion of Federal money (\$600 million of this in the Tennessee Valley Authority) is invested in power projects and irrigation plants. Millions of acres of productive farmland, reclaimed grazing land, hundreds of millions of dollars' worth of productive decentralized private industrial enterprise have resulted from these great projects that no private wealth could have underwritten. The all-important "preference clause" assures the widespread distribution of the benefits of these public investments by giving the first chance to the organizations that serve the public, such as municipalities, Navy installations, rural electric co-ops. The great atomic plants at Hanford and Oak Ridge were possible only with the power made available by public projects.

Is the job finished?

The facts give little backing to those who say that public domain may have been necessary once, but is no longer necessary. The truth is we are still short of many vital resources, and looking to future increasing needs, we must save many resources from imminent depletion. Vast sums will be needed as in the past; private sources cannot supply them all.

(a) We are facing a serious wood shortage. Industrial demands require almost double the current supply, and yet we are already overcutting our forest lands. The Materials Policy Commission report of 1952 estimated that replanting and woodland management for the near future ought to have an additional public annual investment of \$77 million plus a capital investment of \$360 million.

(b) We are facing crop shortages. The Materials Policy Commission estimated that by 1975 we shall need 42 percent more produce from the land than in 1950. Some 115 million acres of cropland are going to be lost to us in another decade from erosion; this is about one-fourth of our potential good cropland. Another 115 million acres need treatment within the next 3 decades. Investment of some \$7 billion is needed here in the next 30 years.

(c) We need more meat. Our meat-eating population is expanding rapidly. Cropland of perhaps 100 million acres is already lost, but with the investment of perhaps \$1 billion over the next decade, may be saved for good pastureland. We must drain swampland, prevent incipient dustbowls, to keep and expand pastureland for meat animals.

(d) We are short of energy. Our demands for fuel and electricity are increasing so rapidly that the Materials Policy Commission estimated that the 1950 supply would need to double by 1975. Today we are already net importers of oil. Our kilowatt potential of hydroelectric energy lies somewhere between 60 million kilowatts and 105 million kilowatts. Tremendous investment must be made to raise us from the position of less than 15

million kilowatts today. The cheapest developments have been built; those to be built will cost more. Our situation is urgent. We must conserve and expand all sources of energy.

Who is after the public domain?

The public domain is not sacrosanct. Only as long as the people are deriving benefits should lands and material remain in the hands of the Federal Government. What is important is that special interests do not make inroads in the public domain when the people will stand to lose. But already many special groups are preparing a chain reaction of inroads on valuable public projects; all they await is the giveaway of the offshore oil lands, and they feel the first step has been made away from the policies set by Theodore Roosevelt and William Howard Taft.

1. The electric-power companies are leading the attack against the preference clause; in fact, some are asking that the actual properties be sold to private interests. This would mean that banks, corporations, insurance companies, and wealthy individuals, a tiny percent of all citizens, would get more than 75 percent of property built from the taxes of all the people. They could set their own rates, choose their own customers, and insure no prior right to organizations that represent all the people. We are not in the field of idle threats here. Members of Congress have already made speeches suggesting that great public enterprises such as TVA be turned over to private interests. Few voices, if any from any walk of life in the Tennessee Valley itself, echo this attack against the basis of productivity and progress in the area—which has, indeed, also benefited the whole Nation.

2. The chambers of commerce are joining the fight to “free” the rangelands. They complain that under Federal regulation designed to save the ranges, the large cattle owners cannot graze their cattle when they please. Associations representing the large woolgrowers and cattle grazers are in the fight which would help the large growers and squeeze out the small-business men. They are asking, not for ownership, but for title “in perpetuity” to lands they use to advantage but not license today.

3. Already there is legislation before the Senate asking that all mineral rights be turned over from the United States to individual States.

4. Private forestry interests are making wild attacks on Government policies, claiming that despite the figures of our forests cut to one-fourth of the original size by 1900, that President Theodore Roosevelt's aide, Gifford Pinchot, combated “a non-existing forest famine in the States.” The prohibitive price of lumber today is indication enough of the extent of our timber shortage.

5. From many sides the special interests cry “Socialism.” This is nonsense. The policies were initiated by staid Republican Presidents and governors. Even today the benefits from public projects are so great that the Republican 80th Congress renamed Boulder Dam “Hoover Dam.” Moreover, all manner of private business worth billions of dollars flourishes in our country today on the base of economically distributed natural resources.

Oil is no exception. It needs a uniform conservation program.

Let us be sure before we give away the public domain for which we fought so hard, that it is no longer needed to serve the people in the two ways in which we agree is to our best national interest: (1) Conserves and utilizes to advantage the resources of our land and (2) assures that the benefits of our resources be distributed fairly among all the people.

Offshore oil, taken as an isolated case, demands public care on both scores. (1) To prevent waste and hasty overuse, standards must be established. The States provide absolutely no unified set of regulations and standards for the extraction of this wealth. We have no assurance that special interests cannot at some time press through hasty or wasteful methods to despoil the great treasure. (2) And the benefits from offshore oil and gas we all know to be vast. The public has serious need of these benefits. Our deficit is large; we cannot afford the schools our children deserve. There is no reason here to alter our historic policy that the benefits of the natural wealth of the continent be distributed fairly among all the people.

Let us not reverse the progress made in conservation

If we let offshore oil go, we reverse the few good chapters of our conservation history, and open the door for the attack on our whole public domain.

PART 3—THE ANDERSON SUBSTITUTE SHOULD BE ADOPTED

XII. WHAT THE ANDERSON BILL PROVIDES

Senator Clinton P. Anderson has introduced S. 107 in order to give effect to the three Supreme Court rulings which aver that the coastal States do not own, and never did own, the lands underneath the open ocean adjacent to their coasts, but that the Federal Government, by reason of constitutional responsibility for external affairs, has "paramount rights" in such lands.

No legislation providing for the administration of these areas and the development of their vast oil and gas deposits has been enacted. S. 107 provides the legislative authority for development of these oil and gas reserves by the Federal Government through the Department of the Interior—the agency which has responsibility for oil and gas development on Federal lands within the borders of the States.

S. 107 specifically:

(1) Permits immediate resumption of oil and gas development in the ocean-submerged areas under the administration of the Secretary of the Interior, but only in conformance with specific standards set by the Congress.

(2) Gives full and complete protection to all holders of bona fide leases issued by the States or any political subdivision of the States respecting the areas and permit them to continue in accordance with their terms.

(3) Gives the States a generous share, 37½ percent, of the revenues from oil and gas operations within their State boundaries, which by definition extend 3 miles from mean low tide.

(4) Confirms the titles of the States to all lands beneath their rivers, lakes, ports, and harbors—to all lands beneath inland navi-

gable waters; that is, including lands covered by the ebb and flow of the tides, namely "tidelands" proper.

(5) Grants ownership to a State or its political subdivision of filled-in, reclaimed, or made lands when such work was authorized and undertaken for a public purpose. This applies both to existing areas within that category and also constitutes a grant of future title to the States.

(6) Gives the States an unquestioned right to control the development and taking of fish, oysters, sponges, kelp and the like within their State boundaries.

XIII. THE ANDERSON BILL WOULD PROTECT THE RIGHTS OF THE STATES

The Anderson bill states unequivocally that the United States has no right, title, or interest in lands beneath navigable inland waters and that the respective States own these lands. Thus, the Anderson bill gives legislative affirmation to the 108-year-old rule that the individual States have unquestioned ownership of lands beneath their inland navigable waters. This legislation settles any question regarding the intentions of the Federal Government toward inland waters, and quiets all fears as to investments made in and upon such lands.

Great Lakes

The Anderson bill defines the term "inland waters" specifically to include the waters of Lakes Superior, Michigan, Huron, Erie, and Ontario to the international boundary. It confirms the existing rights of the eight Great Lakes States to the beds of the lakes which they border up to their international boundaries. In spite of the fact that an international boundary line runs through most of the Great Lakes, the only approach to the lakes is through an inland water, and no other nation except Canada has any right there. Two Supreme Court decisions, *Illinois Central Railway v. Illinois* and *Mass. v. New York*, and numerous statements by Federal officials leave no real doubt that the Great Lakes are inland waters. S. 107 utterly destroys the propaganda to the contrary.

Lakes, rivers, and streams

The Anderson bill quitclaims to the States the bottoms of their navigable lakes, rivers, and streams.

Bays, ports, and harbors

The Anderson bill defines the term "inland waters" to include ports, harbors, and bays landward of the ocean. It confirms the rights of the States to such harbor and terminal developments as those at Seattle, San Francisco, Los Angeles, Mobile, Norfolk, New York, and Boston which have all been determined to be within inland waters. In the case of bays and estuaries, the United States position is that those less than 10 miles wide are inland waters. One of the recognized exceptions to the 10-mile rule is the "historical bays"; Chesapeake, Boston, and Delaware Bays are historical bays and the United States accepts them as inland waters. In the brief filed by the Federal Government in the California case, attention is called to the existence of historic bays and Chesapeake Bay is cited as the prime example.

Filled or reclaimed lands

The Anderson bill recognizes and confirms the rights of any State to title and ownership of the surface of filled-in, made, or reclaimed land on the Continental Shelf. Thus specific protection is afforded such waterfront beach developments as those of New York, New Jersey, and Florida.

Furthermore, the bill confirms and recognizes the rights of the States to the surface of submerged lands of the Continental Shelf which in the future become filled, made, or reclaimed for recreation or other public purpose. Thus, the bill seeks to release any rights that the United States may have to artificially filled beaches.

All of the filled areas in such cities as Boston, Mobile, San Francisco, and New York are clearly within inland navigable waters. In spite of repeated assurances by representatives of the United States, certain municipalities seem to fear that a cloud has been placed on their rights and investments in such lands. This section has been drafted explicitly to allay such fears.

Docks, jetties, piers, and wharfs

The Anderson bill reaches beyond inland waters to confirm State, municipal, or individual control of docks, piers, wharfs, jetties, and other such structures built on the submerged lands of the marginal sea.

Actually most of the structures and other developments undertaken by the States and municipalities upon submerged lands are situated within inland waters. However, a comparatively few structures such as piers, wharfs, and docks have been extended seaward into waters of the marginal sea. This section explicitly confirms rights granted heretofore by the States in connection with the erection of such structures.

Marine, animal, and plant life

The Anderson bill gives to the States the unquestioned right to regulate, manage, and administer the taking, conservation, and development of all fish, shrimp, oysters, clams, crabs, lobsters, sponges, kelp, and other marine animal and plant life within the area of the submerged lands of the Continental Shelf lying within the seaward boundary of any State, in accordance with applicable State law.

XIV. THE ANDERSON BILL WOULD PROTECT THE RIGHTS OF THE FEDERAL GOVERNMENT

To sovereignty over territorial waters

The Anderson bill, unlike the quitclaim bills, does not attempt to give to the coastal States jurisdiction and control over extensive areas of the open ocean. S. 107, while allowing the development of the offshore areas, adheres completely to the judicial ruling of the Supreme Court that the Federal Government has "paramount rights" in and control over these waters.

To rights to minerals on the Continental Shelf

The Supreme Court has held that the Federal Government has control over the resources in the ocean-submerged lands, and the Anderson bill keeps such control in the Federal Government, where the Supreme Court has ruled that it always has been since the beginning of our history as a Nation.

To conduct foreign affairs

The Anderson bill does not in any way interfere with the traditional right of the Federal Government to conduct the foreign affairs of the Nation insofar as the establishing of our national sea boundaries is concerned. The quitclaim bills provide for a formal recognition, in some areas, of a State and hence a national boundary far in excess of the 3-mile boundary. Thus, the United States would be making a delegation or abdication to a group of States of the powers and responsibilities of the National Government with respect to external affairs. Recognition of such boundaries would inevitably lead to other nations extending their national boundaries and further complicating the relationships between nations. S. 107 does not change existing law, does not change our national policy, and does not take anything away from anybody.

XV. THE ANDERSON BILL WOULD CONTRIBUTE TO PROMPT DEVELOPMENT
OF OIL FOR NATIONAL DEFENSE

Much less future litigation likely

The Anderson bill would give an immediate, equitable solution to the so-called tidelands problems and permit immediate development of those oil-rich areas in the national interest. There are many who believe that the Federal Government cannot give away what it holds as incident of its national external sovereignty. A legislative act attempting to do so would probably be immediately challenged in the courts, and finally end up with another review before the Supreme Court. This could require many years to complete. In the meantime there should be interim operation of these lands, and S. 107 is designed to permit such interim operation without attempting to decide the major question of final ownership of these areas.

Provides for development of full Continental Shelf

The Anderson bill, without modifying any existing legal rights, offers an immediate solution to the problem by providing that development of the offshore petroleum and gas deposits be undertaken by the United States Department of Interior in conformity with standards set by Congress. New leasing, under competitive bidding, is authorized on the Continental Shelf area.

Provides a basis for sound national defense policy on petroleum

The Anderson proposal provides for immediate development of the oil-rich submerged lands, thus assuring the United States of a greater reserve of this most important commodity. In the event of a national emergency, or if current imports of oil from other nations should be cut off, the United States will have an increased reserve of petroleum from which to fill its domestic and defense needs.

XVI. THE ANDERSON BILL PROTECTS LEGITIMATE RIGHTS OF STATE
LEASEHOLDERS AND FEDERAL LEASE APPLICANTS

State leaseholders

The Anderson bill gives full and complete protection to all holders of bona fide leases issued by the States or any political subdivision of the States respecting the ocean-submerged areas and permits them to continue in accordance with their terms.

Federal lease applicants

At this time, some nine lawsuits are pending in Federal District Court in the District of Columbia awaiting the outcome of the Supreme Court's decision as to the boundary line in California. Once this State-Federal boundary line is known, then it can be determined judicially whether the areas in issue in these nine cases are the property of the State of California—that is, that they are beneath inland waters—or whether they are in the area to which the Federal Government has paramount right; namely, the open Pacific Ocean. In this latter event, it will be up to the Court to decide whether the Federal Mineral Leasing Act applies to the undersea areas under Federal control as it does to the upland areas under such control.

In addition to applicants under the Mineral Leasing Act, there is the matter of holders of scrip certificates. Under quietclaim legislation both the scrip holders and the applicants under the Mineral Leasing Act would be put out of court, in effect. It deprives them of any vested property rights they may have. S. 107 gives full protection to these applicants and takes nothing away from them.

PART 4—THE HILL "OIL FOR EDUCATION" AMENDMENT SHOULD BE ADOPTED

XVII. WHAT THE HILL AMENDMENT PROVIDES

The Hill amendment is brief and simple.

It consists of the following two sections (to be inserted at the appropriate places in the Anderson substitute):

(2) All other moneys received under the provisions of this Act shall be held in a special account in the Treasury during the present national emergency and, until the Congress shall otherwise provide, the moneys in such special account shall be used only for such urgent developments essential to the national defense and national security as the Congress may determine and thereafter shall be used exclusively as grants-in-aid of primary, secondary, and higher education.

(3) It shall be the duty of every State or political subdivision or grantee thereof having issued any mineral lease or grant, or leases or grants, covering submerged lands of the Continental Shelf to file with the Attorney General of the United States on or before December 31, 1953, a statement of the moneys or other things of value received by such State or political subdivision or grantee from or on account of such lease or grant, or leases or grants, since January 1, 1940, and the Attorney General shall submit the statements so received to the Congress not later than February 1, 1954.

XVIII. THE HILL AMENDMENT RECOGNIZES THE SERIOUS NEED FOR AN IMPROVED EDUCATIONAL SYSTEM

The "oil for education" amendment dedicates the revenues from the Nation's undersea oil and gas deposits first to the urgent needs of national defense during the present emergency and then to be used exclusively for grants-in-aid to primary, secondary, and higher education.

In connection with its consideration of the "oil for education" amendment, the committee heard expert testimony concerning the financial plight of the Nation's grammar schools, high schools, and colleges, and of the unsuccessful efforts of the States and local communities unassisted to catch up with a 20-year lag in school construction, and to meet the vastly increased financial needs of our growing school population.

It was demonstrated to the committee that deficiencies in our school system and in the education of our people are having serious effects upon our national-defense program and our national security.

The crisis in education

The evidence presented to the committee shows that our education system today faces its most severe crisis in our history. The physical condition of our schools and school plants is in so many ways dilapidated. Our school population is increasing at a rapid, indeed an almost overwhelming, rate, and our underpaid teachers are leaving the field of education in order to find jobs that will maintain them and their families at an American standard of living. Today we must sadly admit that the school teachers and the boys and girls who are studying in our schools are to an alarming degree the forgotten people. We are crowding our children into bursting and obsolete classrooms, into dangerous, inadequate, and unsanitary buildings. We are paying our teachers too little and working them too hard. We are failing to train and prepare needed recruits for the teaching profession.

This is not a temporary or short-run condition. The measures which we have taken to meet it are not adequate. Competition with industry and defense-related jobs has taken many of the best teachers from the classrooms. Many communities are scraping the bottom of the barrel to get even inadequately prepared teachers. Schools are not being built fast enough to meet the needs of a rapidly expanding enrollment and the education of children is being impaired because of inadequate buildings, poorly trained teachers and double sessions, or part-time instruction.

Teacher shortage serious

Observing the teacher shortage in the United States, Dr. McGrath, head of the United States Office of Education, recently had this to say:

A grave threat to our schools is the alarming shortage of fully qualified teachers. Our schools employ the services of the country's largest professional group—more than 1 million persons. It takes a lot of new recruits each year just to replace those who leave the profession through resignation and death. Conservative estimates of the annual need merely to maintain normal ratios between supply and demand of teachers put the figure at about 95,000. In addition, the number of children to be taught swells each year, and by the end of the decade the normal needs for replacement of public school teachers will be 110,000 per year. (See appendix E.)

Dr. McGrath continues:

For the elementary schools, the number of qualified teachers now available annually is only one-third of the number needed. The result is either the employment of a poorly qualified or unqualified teacher on an emergency certification, or the doubling up of classes and the gross overloading of teachers.

Rural schools are hardest hit

Speaking of rural schools, Dr. McGrath said:

The preponderance of emergency certifications issued of necessity to poorly qualified persons are issued for teachers in our rural schools. It is too great a compliment to the sons and daughters of the farms to say that they can be educated just as well as city children, with less able teachers.

We are guilty of shocking neglect of our teachers. We have never given them the recognition, the appreciation and the financial security they deserve. Poorly paid even before World War II, their situation is much worse today. Their earnings have not kept pace with earnings

in general. Rising costs have forced thousands upon thousands of teachers from the classrooms out of economic necessity, and they are still leaving. The drain is greatest among our best trained teachers.

Teacher-training colleges cannot even begin to meet the huge demand for teachers from the dwindling graduating classes, as young people abandon their teaching ambition in the face of economic necessity.

Teacher pay lowest of all

The deplorable state of teacher income is revealed in a recent survey by the National Education Association. The NEA survey shows how we have let our teachers drop to the absolute bottom of the economic ladder. Teachers are now the lowest paid of all employed groups in America.

That this fact is best known by our young people who are preparing to earn a livelihood is indicated by the following article which appeared in the New York Times of February 1:

Last week disturbing evidence came to light to uphold the thesis that superior high-school graduates shy away from teaching. The annual report of the Educational Testing Service at Princeton, N. J., presented evidence that men who are preparing to be teachers are, as a group, the poorest students of all those attending colleges and universities.

Best talent shuns teaching

The Princeton Service, headed by Dr. Henry Chauncey, administers the College Entrance Examination Board tests and most of the recognized examinations on the higher education level. About a year ago the armed services asked the board to give the draft deferment tests to young men in college who are of military age. In 1951-52 the bureau gave more than 400,000 tests as part of its Selective Service College Qualification Test program. The results are startling, to say the least. It was found that students in education—those men who were preparing to be teachers—did worse on the tests than any other group of students.

As we read these findings, can we fail to comprehend that these are our future teachers, the people we must depend upon to endow our children with knowledge and teach them to think?

Do we forget that the teacher is the central figure in the education process?

For many hours of the day, we entrust the minds and the character of our most precious resource, our children, to the teacher to mold the children for the responsibilities of manhood and womanhood. Inevitably, the character and influence of the teacher are woven into the character of the entire Nation.

Young teacher graduates abandon profession

Not only are we losing teachers out of the classrooms. Not only is enrollment in teacher-training classes dwindling rapidly. Not only are we failing to attract the best young brains into teacher colleges. But increasing numbers of our young teacher graduates are failing to taking up teaching. This story is told in a very revealing article by Dr. Samuel Engle Burr, chairman of the department of education at American University in Washington, D. C.

Dr. Burr's article was based on his survey of teacher graduates from that institution since the fall of 1947. The survey reveals that only 55 percent of the graduates in education actually hold teaching positions and that 25 percent are working in some field other than that for which they are especially trained. The article lists the

following as among the types of employment in which some of the young men who prepared for the teaching profession are earning their livelihood—public relations counselor, grocer, importer and distributor of books, curios and art materials, magazine sale promotion representative, statistical draftsman, payroll clerk, and music cataloguer in a library.

It appears that all these types of employment pay better salaries than does teaching or offer other advantages such as greater opportunity for advancement, better working conditions or employment in a favored locality.

Teachers turn to outside work

Interesting results were published of a survey by the Beta Field Chapter of Phi Delta Kappa by Mr. Adolph Unruh in the Phi Delta Kappan. The question studied was, "How many male teachers in the city and county of St. Louis, Mo., find it necessary to supplement their regular income from teaching by doing other kinds of work?"

The survey revealed that only 8 percent of the male teachers supported themselves and their families by teaching alone. Ninety-two percent hold supplementary jobs or their wives work, or they have some income which is independent of their earnings in the field of education.

The article lists over 100 kinds of employment performed by these male teachers in addition to regular teaching. It is interesting to note the wide range of jobs that these men are performing after school is over in the afternoon, for as long as an 8-hour shift. It would seem that few of the outside jobs bear any real relationship to their specialized work as a teacher or to their specialized training for their profession.

The jobs vary from bowling alley manager to frozen custard stand operator to short-order cook. Fifty-two percent reported that they felt the extra hours detracted from their effectiveness in teaching.

The only way that we shall be able to meet the unprecedented demand for teachers and the cry for competency in the classroom is to halt the alarming drift away from the teaching profession and train more teachers. This means that we will have to stop regarding teaching as a second-class or, should we say, a last-class profession, and pay our teachers adequately.

Shortage of school buildings severe

Now let us look at the facts on the shortage of school buildings.

Evidence gathered by the committee shows that the need for school-house construction today is without precedent in the history of the Nation. In the 10-year period from 1920 to 1930, the enrollment in public and nonpublic elementary and secondary schools increased by slightly more than 5 million (5,028,182). In the decade from 1948 to 1958 the increase will be doubled that amount (10,152,000). The tide of war-born babies is engulfing the lower grades, and it will move right on up through the elementary and high schools. Classrooms must be provided for these children, and they must be provided now—not 20 years from now.

School construction lagged for 20 years

If we had only this population increase to face, the situation would be serious enough; but it is doubly difficult to find room for these new

millions of children because for 20 years there was a marked decline in school construction. During the 1930 decade schoolhouse construction lagged far behind the needs, largely due to a shortage of local funds during the depression years. Even a considerable amount of Federal assistance through public works programs was not enough to keep pace with the need. During the 1940 decade the backlog of need continued to grow as the school construction lagged further behind. Throughout the war years shortages of labor and materials made it difficult to hold to even a normal program of maintenance. For this reason depreciation was accelerated. School construction remained at a low level until 1948, and it was not until 1950 that the annual rate of expenditure for school construction reached the average for the 1920's. By 1950 it was estimated that the national backlog of need was more than 250,000 classrooms.

Construction needs placed at \$10.7 billion

The Second Progress Report of the School Facilities Survey which is now being made by the Office of Education estimates the total cost of the Nation's school plant needs as of September 1952 to be \$10.7 billion. With the increased enrollments now evident, and taking into consideration regular replacements for obsolescence, it may be estimated that by 1958 a total of 600,000 additional classrooms will be needed, and that the cost will be between 18 and 19 billion dollars (in 1951 dollars).

These statistics as to classrooms and dollars ought really to be understood in terms of children. The situation is already critical to a very high degree. In far too many communities, classrooms are so overcrowded as to make effective teaching almost impossible. School basements, apartment house basements, empty stores, garages, churches, and even trailers are being utilized to take care of the overflow. In many instances school authorities are having to resort to half-day and even third-day sessions to carry the load.

Unsafe and unsanitary buildings

Furthermore, United States Office of Education surveys show that 1 out of 5 schoolhouses now in use should be either abandoned or extensively remodeled. Many of them are fire hazards—wholly unsafe for school use. Others are so obsolete in structure and design as to be completely unsuited for today's educational needs. Still others are so lacking in sanitary conveniences as to constitute a health menace.

Miss Selma Borchardt, vice president of the American Federation of Teachers, called the plight of the Nation's schools "shocking" and told the committee that:

Forty four percent of all elementary school buildings now in use, housing 27 percent of all elementary pupils, are held to be unfit and unsatisfactory for classroom use.

Sanitary facilities are lacking for over a million school children.

Adequate medical facilities are lacking in 85 percent of the schools.

The Nation's public elementary and secondary school population needs additional floor space equal to a 1-story building 52 feet wide extending from New York City to San Francisco, Calif. This amount of floor space equals the total residential housing space in a city the size of Philadelphia, Pa.

The effect upon the child

The U. S. News and World Report, in an editorial entitled "School Jamming: Worst Ever," sums up for us the following effects upon our children of the severe classroom and teacher shortages:

Makeshift classrooms—in store buildings and other unsatisfactory structures—for 1.8 million pupils.

Short days—so that 2 or 3 classes may use the same room—for more than 1 million.

Fire danger to 6.4 million in buildings that do not meet minimum standards of safety against fire.

"Little red schoolhouse" training for 1.9 million in 1-room, 1-teacher schools. Overcrowding for 14 million who find 30 or more classmates in their classrooms. Among them are 800,000 in rooms with 50 or more.

The Educational Policies Commission, representing the National Education Association and the American Council on Education, sees these additional effects upon the child:

Overcrowded schools, with their part-time classes, overworked teachers, mass instruction, and watered-down programs produce effects which are not always immediately observable, but are nonetheless serious. Pupils do not learn the things they should, and they master less well the things they do learn.

Relations between home and school are weakened, and the well-balanced development of children is prevented. Ingenious administrative arrangements to utilize every building to the limit are helpful, but they are no substitute for the careful ministrations of a teacher who has time to teach each child well. Fitness for freedom is not mass-produced.

We cannot forget that educational benefits once lost can never be reclaimed. When a child loses a day or a week or a year of his schooling, he has lost it forever. If our schools are forced to continue to resort to such expediciencies as one-half-day and one-third-day sessions, if we continue to send many of our children to be taught by ill-prepared and incompetent teachers, the damage can never be repaired.

Needs of higher education

We are also facing a critical situation in the field of higher education. Income from gifts and endowments is off sharply, as is student enrollment. The New York Times survey shows that the financial plight of America's 1,900 institutions of higher learning has grown worse. One out of every three liberal arts colleges is operating in the red. Faculties have been reduced in many institutions. Some of them have begun to lower academic standards to keep their campuses open. Tuition rates have risen to new peaks.

Dr. Louis A. Wilson, New York State commissioner of education, declares that the colleges and universities in the Empire State, in common with those in the rest of the country, have critical financial problems, with inflation throwing out of balance the economic basis upon which they have operated. He declares further, a substantial number of our institutions are facing the most severe crisis of their entire history. In a few brief years we shall find the same conditions of overcrowding and swollen enrollments in our colleges as we now have in our elementary and secondary schools, and our colleges will face the compelling necessities of this situation with their finances in a depleted condition.

High tuition rates a bar to college training

Tuition rates have pushed so high that the board of trustees of New York State University last month called for a downward revision in

tuition and other fees at the State institutions to prevent forcing many young men and women out of school.

In citing the need for an "equitable tuition and fee policy," the trustees had this to say:

Behind State University of New York is a conviction that there must be broad opportunities for higher education.

The opportunities should be available to every young man and woman capable of benefiting from a high order of intellectual and technical disciplines. One of State university's duties is to open doors for able young people who, in the absence of such a public university, could not take advantage of opportunities of higher learning.

Completely aside from the question of the necessity for preparing our young men and women to be good citizens and to earn a livelihood, we are here posed with the question of providing for the future military security of our Nation, and the crisis in our educational system is already imperiling that security.

No member of the Senate is unaware of the enormous rate of rejection of men under selective service for educational deficiencies during World War II. By the time the submerged lands legislation was considered on the floor of the Senate last year, over 300,000 had been rejected for illiteracy and educational deficiencies since the fighting in Korea began. This is the equivalent of over 17 infantry divisions, and, doubtless, the number has climbed much higher by this time. For, certainly, little has been done to correct the situation.

Education and national security

It is not necessary to belabor for the Senate the relationship of education to national security. The plain fact is that we need more specialists of every kind—more scientists, more chemists, physicists, more doctors, more professional and business leaders, more agriculturists and more engineers.

The shortage of engineers and scientists is a source of growing anxiety for defense mobilization officials.

Defense officials have declared that to bring the United States to a maximum military strength, there must be a tremendous acceleration in the training of scientists and engineers. They point out that a speedup in research and industrial technology is an integral part of the defense program and that, therefore, scientific development which normally would have been spread over a decade has had to be telescoped into less than half that time.

Impact on defense production

The Director of Defense Mobilization reports that—

Acute shortages are continuing among highly skilled professional, scientific, and technical workers needed in defense and essential civilian industries. Under full mobilization, the lack of such workers would be critical. There are now 61 occupations on the critical list for which demand is greater than supply. The numbers now enrolled in college courses or taking other types of training are not sufficient to meet future needs.

The Engineering Manpower Commission of the Engineers Joint Council warned last month that industrial production and expansion which the council said had been hampered for the past 2 years by a serious shortage of engineers and scientists will continue to be held back this year from attaining full output of civilian and defense materials.

Nation short 40,000 engineers

Voicing the same concern over the shortage of engineers, Mr. Maynard M. Boring, personnel manager of the General Electric Co. and a member of the American Society for Engineering Education, recently told an Armed Forces conference that, if the shortage in industry continues, defense contracts might have to be extended or canceled.

He said that a survey group in studying demand had questioned 357 industrial companies and Government agencies and found that the country was short about 40,000 engineers.

To understand the tremendously increased demand for engineers, we have but to note, for example, that construction of a B-17 bomber in World War II took 350,000 engineer man-hours, whereas today's B-36 takes exactly 10 times as many man-hours, 3,500,000.

Based on a comprehensive survey of the Nation's scientific and professional manpower resources, the National Manpower Council reports that "one of our most dangerous shortages may come to be a shortage of brains at the frontiers of human knowledge." The Council found that only 1 in 4 Americans of college age have any college education, ranging from 1 in 10 for South Carolina to 1 in 2 for Utah. The principal reasons for the low utilization of college training were found to be poor high schools and a lack of finances.

The same deep concern over our waste of manpower was expressed to the committee by Dr. John K. Norton, head of the department of educational administration, Columbia University, and former Chairman of the Educational Policies Commission when President Eisenhower and Dr. Conant of Harvard were members of the Commission. Dr. Norton declared that:

We have about a 50-percent educational system in the products it turns out and in the support it receives today.

He continued:

More than half of the children who enter at the first grade fail to finish high school. Perhaps even more important in terms of its effects upon our preparedness is the fact that only half of our top talent, those who get high marks in high school, who pass intelligence tests, who it is generally agreed could do college work and do it well, actually do so.

We are wasting one-half of our top talent in terms of giving them substantial professional, technical or vocational training.

XIX. THE HILL AMENDMENT RECOGNIZES THE HISTORIC POLICY OF USING PUBLIC LANDS FOR EDUCATIONAL PURPOSES THROUGHOUT THE UNITED STATES

The proposal follows historic precedent

The oil-for-education amendment proposes no new departure into uncharted seas. It is simply a continuation of one of our oldest and wisest national policies—the use of public lands and the revenues therefrom for educational purposes, for the benefit of the whole Nation.

From earliest beginnings in colonial times, many of the Colonies earmarked public lands for the establishment and support of schools. The earliest case was in Virginia in 1618. Colleges started with the aid of land grants in the various Colonies include Harvard, in Massachusetts; William and Mary, in Virginia; Yale, in Connecticut; Princeton, in New Jersey; and others in South Carolina and Georgia.

Not for the few, but for all

After the American Revolution, we were faced with a situation which was similar in some respects to the present demands of the three coastal States for the national property in the submerged lands lying beyond the low-tide mark. Individual States laid claim to the territories west of the Appalachians. But Congress wisely withstood these claims of the few and, in 1780, passed a resolution containing a pledge that these western lands would be disposed of for the benefit of all the people.

Public lands for education

In 1785 and 1787, ordinances were passed by the Congress which specifically set aside every 16th section of the public lands west of the mountains for the establishment and maintenance of schools. In speaking of the Ordinance of 1787, Daniel Webster declared:

I doubt whether one single law of any lawgiver, ancient or modern, has produced effects of more distinct, marked and lasting character than the Ordinance of 1787 * * * it set forth and declared it to be a high and binding duty of the Government to support schools and advance the means of education.

In certain contracts for the sale of public lands in 1787 and 1788, the Congress again designated lands to be used for the establishment and support of schools and universities.

In 1802, the Congress took action in continuation of the national policy of support for education initiated 17 years earlier. With the admission of Ohio to the Union in that year, the Congress set aside lands in townships for school support. As other States formed from the public domain were admitted, the land grants for schools were continued. New States also received lands for the endowment of universities. Many of our great State universities were started with the aid of such grants.

Grants for schools doubled and redoubled

In 1848, the land grants to new States for school purposes were increased to 2 sections in each township, and in 1896 the grants were increased to 4 sections in each township.

Congress also made other grants of land, such as saline and swamp-land, for various purposes, including education. States were permitted and, in some cases, directed to use for schools a part or all of the funds derived from these grants.

All of these actions by Congress clearly reflected the declared policy that the public lands were a public trust to be used in the national interest.

The schools that were established benefited not alone the States in which they were located but the whole Nation as well.

All States share in land revenues

Furthermore, the funds derived from the sale of public lands by the National Government went into the general funds of the Treasury and served the whole population. In the early days, such revenues constituted a large part of the income of the National Government. In further support of the view that revenues from public lands were common treasure, the Congress in 1837 distributed among all the States over \$28 million of surplus funds in the Treasury. The surplus was largely derived from land sales. The States utilized a considerable portion of the money for schools.

In 1841 the Congress passed an internal improvement act and provided for the distribution of the proceeds from the sale of public lands among the several States and Territories. Here again, portions of the money were used for schools.

The Morrill Act and land-grant colleges

In 1862, Congress passed the historic Morrill Land Grant College Act, signed into law by President Abraham Lincoln, granting to each State 30,000 acres of land or land scrip for each Senator or Representative in Congress to which the State was entitled for the establishment and maintenance of colleges for the benefit of agricultural and mechanical arts. Every State in the Union has shared in these grants.

Not just land, but land revenues

After the land-grant colleges had become fairly well established throughout the Nation with the assistance provided by the land grants under the Morrill Act, many of the States experienced difficulty in supporting these colleges. In a number of subsequent acts, Congress provided for the further endowment, support, and extension of the services of these institutions with funds derived from public lands.

Among these were the Hatch Act of 1887 for the establishment and support of agricultural experiment stations at land-grant colleges and the Second Morrill Act of 1890 for the permanent endowment and support of land-grant colleges.

The Homestead Act of 1900 provided that in case the annual sales of public lands were not sufficient to cover the Federal payments to the land-grant colleges and experiment stations, the deficiency should be made up from other Federal funds.

The endowment magnificent

Benefits accruing to the Nation from this fruitful and farsighted policy of educational endowment have been great beyond measure. The grant of 175 million acres for primary, secondary, and higher education has been called the "endowment magnificent."

Dr. Norton of Columbia University told the committee that the land grants constituted "the greatest gift to the development of education in the history of the whole world." This statement by one of the Nation's foremost authorities on education, who served as Chairman of the Educational Policies Commission when President Eisenhower and Dr. Conant of Harvard were members, was followed by his estimate that enactment of legislation of the type proposed by the "oil for education" amendment "would represent an exhibition of statesmanship equivalent to what was done in 1785, 1787, 1862, and the other great landmarks in the leadership of the Federal Government in developing education in this country."

Adopt "oil for education" amendment

Of course, we do not suggest that the "oil for education" proposal will prove a cure-all for every ill and every need that vexes our educational institutions, but we do feel that the revenues which will eventuate from the development of these resources can contribute importantly to meeting the needs.

Let us not be less wise and foresighted than those early statesmen who seized similar opportunities to dedicate great national resources

for education to the benefit of our country and of succeeding generations, including our own.

The "oil for education" amendment should be adopted.

XX. IT RECOGNIZES THE SERIOUS TAX BURDENS NOW FACED BY STATE
AND LOCAL GOVERNMENTS

Senator Hill's "oil for education" amendment recognizes that the State and local governments by themselves cannot do the entire job of financing the needed improvements in America's educational system.

It recognizes the fact that many States do not have the taxable wealth to produce needed revenues, that in many areas of the country real estate is already overburdened with local taxes, and that new sources of revenue for educational purposes are needed.

It therefore provides that the royalties received from offshore oil and gas resources "shall be held in a special account in the Treasury." Except to the extent that Congress may, during the present emergency, draw upon this fund for "urgent developments essential to the national defense and national security," these revenues "shall be used exclusively as grants-in-aid of primary, secondary, and higher education."

This legislation is extremely generous to the three coastal States, California, Louisiana, and Texas. Each of them would receive 37½ percent of the royalties collected from the Federal lands within the 3-mile limit off their coasts.

As is pointed out in section III, the most conservative estimate of the value of the offshore resources is \$50 billion. This could provide an income of at least \$6.25 billion for educational purposes.

Yet it has also been demonstrated that the value of these resources is probably much more than \$50 billion. As pointed out in section III, the inclusion of Alaskan oil reserves and Texan sulfur and the taking into account of probable price increases raise the total value to \$186 billion. This could provide an income of more than \$23 billion for educational purposes.

JAMES E. MURRAY.
CLINTON P. ANDERSON.
HENRY M. JACKSON.

APPENDIXES

APPENDIX A. THE CASE FOR UNITED STATES CONSERVATION

1. HUMANITY'S BASIC PROBLEM: THE SUPPLY OF NATURAL RESOURCES

(Breaking New Ground, by Gifford Pinchot, 1947, pp. 323-325)

FROM SEPARATED COLONIES TO UNITED STATES

The American Colonies, like the Government bureaus which have to do with the various natural resources, were founded at different times, for different reasons, and by different kinds of people. Each Colony, from Georgia to New Hampshire, dealt with nature in a somewhat different form. Each had to face a problem unlike the problems of all the others, and each was itself unlike all the other Colonies.

Before the Declaration of Independence they were so many weak and separate twigs. Could we have become what we are today if the Thirteen Colonies had remained independent, self-sufficient little nationlets, quarreling among themselves over rights, boundaries, jurisdictions, instead of merging into a single nation with a single Federal purpose?

The mere fact of union produced something different and unknown before. Here were new purpose and new power, and a future infinitely greater than anything 13 separated Colonies could ever have lived to see. Union did not wipe out the 13 separate charters of the 13 separate States, but it did bind them together into the strength of the new Nation.

E Pluribus Unum is the fundamental fact in our political affairs. E Pluribus Unum is and always must be the basis in dealing with the natural resources. Many problems fuse into one great policy, just as many States fuse into one great Union. When the use of all the natural resources for the general good is seen to be a common policy with a common purpose, the chance for the wise use of each of them becomes infinitely greater than it had ever been before.

CONSERVATION IS THE KEY

The conservation of natural resources is the key to the future. It is the key to the safety and prosperity of the American people, and all the people of the world, for all time to come. The very existence of our Nation, and of all the rest, depends on conserving the resources which are the foundations of its life. That is why conservation is the greatest material question of all.

Moreover, conservation is a foundation of permanent peace among the nations, and the most important foundation of all. But more of that in another place.

It is not easy for us moderns to realize our dependence on the earth. As civilization progresses, as cities grow, as the mechanical aids to human life increase, we are more and more removed from the raw materials of human existence, and we forget more easily that natural resources must be about us from our infancy or we cannot live at all.

What do you eat, morning, noon, and night? Natural resources, transformed and processed for your use. What do you wear, day in and day out—your coat, your hat, your shoes, your watch, the penny in your pocket, the filling in your tooth? Natural resources changed and adapted to your necessity.

What do you work with, no matter what your work may be? What is the desk you sit at, the book you read, the shovel you dig with, the machine you operate, the car you drive, and the light you see by when the sunlight fails? Natural resources in one form or another.

What do you live in and work in, but in natural resources made into dwellings and shops and offices? Wood, iron, rock, clay, sand, in a thousand different shapes but always natural resources. What are the living you earn, the medicine you take, the movie you watch, but things derived from nature?

What are railroads and good roads, ocean liners and birch canoes, cities and summer camps, but natural resources in other shapes?

What does agriculture produce? Natural resources. What does industry manufacture? What does commerce deal in? What is science concerned with? Natural resources.

What is your own body but natural resources constantly renewed—your body, which would cease to be yours to command if the natural resources which keep it in health were cut off for so short a time as 1 or 2 percent of a single year?

There are just two things on this material earth—people and natural resources.

From all of which I hope you have gathered, if you did not realize it before, that a constant and sufficient supply of natural resources is the basic human problem

2. THE BIRTH OF TWENTIETH CENTURY CONSERVATION

(Breaking New Ground, by Gifford Pinchot, pp. 344 to 355)

THE CONFERENCE OF GOVERNORS OF 1908

Minerva, you will recall, was born full-armed from the head of Jove. Unlike the Goddess of Wisdom, the conference of governors, unquestionably Wisdom's child, was a gradual growth. It began in a mission by F. H. Newell on board the river steamer *Mississippi*, during the Commission's high-water trip down the Father of Waters in May of 1907. Newell proposed that the Commission should hold a conference on natural resources during the coming winter in Washington. His idea was approved by the Commission, was made public by Chairman Burton, and Burton and Pinchot were appointed a committee to bring the matter to the President's attention "as an expression of the view of the Commission, leaving him to decide how the call shall issue."

During the following summer Newlands, McGee, Newell, and I prepared the draft of a program for the proposed conference. They, but not I, also attended a meeting of the National Irrigation Congress, at Sacramento, where they learned that the Lakes-to-the-Gulf Deep Waterway Association expected to bring together at its coming Memphis convention a score or more of governors.

Accordingly it was decided that the conference ought to be primarily a conference of governors, with such experts and others as might be desirable.

To that T. R. agreed. And the draft of his coming Memphis address announced that the Inland Waterways Commission would, with his approval, call a conference of governors and experts on the conservation of natural resources in Washington during the coming winter. But it did not happen that way.

On the President's trip down the *Mississippi* in the autumn of 1907, the Commission, after consulting the twenty-odd governors present, asked the President, in a formal letter, to call the conference himself. The letter, which was written by McGee, gave these as among the reasons for such a conference:

Report of the Inland Waterways Commission

"Hitherto our national policy has been one of almost unrestricted disposal of natural resources, and this in more lavish measure than in any other nation in the world's history; and this policy of the Federal Government has been shared by the constituent States. Three consequences have ensued: First, unprecedented consumption of natural resources; second, exhaustion of these resources, to the extent that a large part of our available public lands have passed into great estates or corporate interests, our forests are so far depleted as to multiply the cost of forest products, and our supplies of coal and iron ore are so far reduced as to enhance prices; and third, unequalled opportunity for private monopoly, to the extent that both the Federal and the State sovereignties have been compelled to enact laws for the protection of the people."

Speech of Theodore Roosevelt, 1907

Later in the same day, October 4, 1907, T.R., with his usual prompt decision, made the announcement in his Memphis address:

"As I have said elsewhere, the conservation of natural resources is the fundamental problem. Unless we solve that problem it will avail us little to solve all others. To solve it, the whole Nation must undertake the task through their organizations and associations, through the men whom they have made especially responsible for the welfare of the several States, and finally through Congress and the Executive. As a preliminary step, the Inland Waterways Commission has asked me to call a conference on the conservation of natural resources, including, of course, the streams, to meet in Washington during the coming winter. I shall

accordingly call such a conference. It ought to be among the most important gatherings in our history, for none have had a more vital question to consider."

The conference was all that T.R. foresaw. Not only did it bring together, for the first time in our history, the governors of the States and Territories to consider a great common problem with each other and with the President, but it was undoubtedly the most distinguished gathering on the most important issue ever to meet in the White House, or indeed, with 1 or 2 exceptions, anywhere in the United States.

In November T.R. invited the governors, each with three advisers, to attend the conference. All the governors accepted. In December the great national organizations concerned with natural resources, some three score and ten in number, were asked to be represented by their presidents, and half a hundred general guests were added. Earlier invitations had been sent to all Senators and Representatives of the 60th Congress, Justices of the Supreme Court, and members of the Cabinet. The Inland Waterways Commission, of course, was included.

Five outstanding citizens were chosen to represent the people of the United States. They were William Jennings Bryan, thrice candidate for President; Andrew Carnegie, foremost steel magnate of his time; John Mitchell, foremost labor leader of his day; James J. Hill, builder of the Great Northern Railroad; and ex-President Cleveland whom illness kept away.

Responsibility for the details of the governors' conference fell to a conference committee (appointed October 5) consisting of McGee, who pulled the laboring oar, Newell, and me, to which we added Tom Shipp, whom we had chosen to be secretary of the conference. Throughout the winter and into the spring, the committee met almost daily in an upper room in the Cosmos Club.

Together we prepared the syllabus for the conference, under the three main heads of mineral resources, land resources, and water resources. Yet for the syllabus, as for choosing the experts to speak and for much besides, McGee was mainly responsible.

The four special guests were anxious for help in preparing their speeches. So were other speakers. We were equally anxious that they should say what needed to be said. Accordingly McGee wrote how many speeches for how many speakers I can no longer recall. But it was an astonishing number, and every one of them clicked.

What was far more important, a draft of T. R.'s opening speech had to be made. For that again, McGee was chiefly responsible. But as so often happened, T. R. declined to be bound by what others wrote, and added no little by his own hand.

The most essential thing our steering committee had to do, however, was none of these things. Its main purpose and responsibility was to see that the conference put conservation before the American people as what it was, and is, and always will be, the central and most vital material problem of the human race.

One special danger faced the conference. Speechmaking governors are notoriously short of terminal facilities. Here would be not only governors by the dozen, but also leaders in every walk of life, men with the habit of having their say and saying it out. Three days would be nothing like time enough for all of them to talk as much as they would want to talk. Therefore, a limit had to be set and a plan devised to confine each speaker to the time allotted him.

The plan we hit upon was this. In the East Room of the White House, behind the stage from which the speakers spoke, were hidden a bell and a man to ring it. T. R. announced, after his opening statement, that 20 minutes would be the time allowed to each, and that the bellringer would ring his bell 3 times when only 3 minutes of the allotted 20 remained, and again twice when the time was up. Throughout the conference the only man who disregarded the ringing and talked beyond the rule was Jim Hill. He took no orders from any bell.

On the morning of May 13, 1908, the conference opened with prayer by the Reverend Edward Everett Hale, Chaplain of the Senate. Then the President spoke. What follows is condensed:

Speech of President Roosevelt to the Governors, 1908

"So vital is this question (of conservation), that for the first time in our history the chief executive officers of the States separately, and of the States together, forming the Nation, have met to consider it. It is the chief material question that confronts us, second only—and second always—to the great fundamental question of morality.

"The occasion for the meeting lies in the fact that the natural resources of our country are in danger of exhaustion if we permit the old wasteful methods of exploiting them longer to continue. In the development, the use, and therefore

the exhaustion of certain of the natural resources, the progress has been more rapid in the past century and a quarter than during all preceding time of which we have record.

"Nature has supplied us, and still supplies us, more kinds of resources in a more lavish degree than has ever been the case at any other time or with any other people. Our position in the world has been attained by the extent and thoroughness of the control we have achieved over nature; but we are more, not less, dependent upon what she furnishes than at any previous time of history since the days of primitive man.

"All these various uses of our natural resources are so closely connected that they should be coordinated, and should be treated as part of one coherent plan and not in haphazard and piecemeal fashion.

"No wise use of a farm exhausts its fertility. So with the forests. We are over the verge of a timber famine in this country, and it is unpardonable for the Nation or the States to permit any further cutting of our timber save in accordance with a system which will provide that the next generation shall see the timber increased instead of diminished."

Then, after quoting the United States Supreme Court to show that the people have the right he claimed for them, the President concluded with this expression of the highest statesmanship:

"Finally, let us remember that the conservation of our natural resources, though the gravest problem of today, is yet but part of another and greater problem to which this Nation is not yet awake, but to which it will awake in time, and with which it must hereafter grapple if it is to live—the problem of national efficiency, the patriotic duty of insuring the safety and continuance of the Nation.

"I wish to take this opportunity to express in heartiest fashion my acknowledgment to all the members of the Commission. At great personal sacrifice of time and effort they have rendered a service to the public for which we cannot be too grateful. Especial credit is due to the initiative, the energy, the devotion to duty, and the farsightedness of Cliford Pinchot, to whom we owe so much of the progress we have already made in handling this matter of the coordination and conservation of natural resources. If it had not been for him this convention neither would nor could have been called." (I hope you will agree that it would have taken superhuman fortitude on my part to leave that last sentence out.)

The President went on: "We are coming to recognize as never before the right of the Nation to guard its own future in the essential matter of natural resources. In the past we have admitted the right of the individual to injure the future of the Republic for his own present profit. The time has come for a change. As a people we have the right and the duty, second to none other but the right and duty of obeying the moral law, of requiring and doing justice, to protect ourselves and our children against the wasteful development of our natural resources, whether that waste is caused by the actual destruction of such resources or by making them impossible of development hereafter."

T. R.'s epochal declaration fits like a glove the situation in which we and all other nations find ourselves today. In this atomic age it is even truer than it was when he made it, nearly 40 years ago.

Having thus for the first time introduced the policy of conservation to the Nation and the world, T. R. suggested the appointment of the five Governors whom McGee, Newell, and I had recommended for the Committee on Resolutions, with Governor Blanchard, of Louisiana, at their head. They were elected unanimously. And so ended the first session which had assured the success of the conference.

The second began with a paper by Andrew Carnegie, who spoke of iron, and included discussion by John Mitchell, who spoke of coal, John Hays Hammond, Elihu Root, then Secretary of State, and several governors.

The third dealt with the natural wealth of the land. James J. Hill opened the discussion. R. A. Long, an outstanding lumberman, entered a plea in confession and avoidance. And the rest of the session was mainly devoted to forest conservation.

The fourth session began with an address by ex-Gov. George C. Pardee, of California, one of the best friends conservation ever had. He spoke on irrigation and forestry and was followed by H. A. Jastrow, president of the National Livestock Association, who discussed the grazing of sheep and cattle on the public lands, and described the handling of the national forests by the Forest Service as "a splendid example of successful and practical management."

In such a meeting on such a subject as conservation, dissent on some details was inevitable. Devotion to the doctrine of States rights, which is still the

darling of the great special interests, was voiced by Governor Brooks, of Wyoming, by Governor Gooding, of Idaho, who demanded the transfer of the national forests and called it the levying of tribute. Jim Garfield answered him in a firm but conciliatory statement, which completely disposed of Norris' argument, although probably not to Norris' satisfaction.

The general tone, however, was of overwhelming approval. Far more was well and wisely said than I can report here. Governor Folk, of Missouri, expressed the evident conviction of the conference when he declared, "This meeting is worldwide in its influence."

Next to the President's address, which set the pace, the high point of the conference was the declaration of the governors. Its wisdom in policy and clearness of statement were due mainly to Governor Blanchard and to Dr. McGee, who, as recording secretary of the conference, sat with the Committee on Resolutions and was very largely responsible for its admirable report.

The declaration of the governors, 1908

The declaration said:

"We, the governors of the States and Territories of the United States of America, in conference assembled, do hereby declare the conviction that the great prosperity of our country rests upon the abundant resources of the land.

"We look upon these resources as a heritage to be made use of in establishing and promoting the comfort, prosperity, and happiness of the American people, but not to be wasted, deteriorated, or needlessly destroyed.

"We agree that the great natural resources supply the material basis on which our civilization must continue to depend, and on which the perpetuity of the Nation itself rests.

"We agree that this material basis is threatened with exhaustion. We recognize as a high duty the adoption of measures for the conservation of the natural wealth of the country.

"We declare our firm conviction that this conservation of our natural resources is a subject of transcendent importance, which should engage unremittingly the attention of the Nation, the States, and the people in earnest cooperation."

And the declaration added this pregnant sentence:

"We agree that the sources of national wealth exist for the benefit of the people, and that monopoly thereof should not be tolerated."

It continued: "We declare the conviction that in the use of the natural resources our independent States are interdependent and bound together by ties of mutual benefits, responsibilities, and duties." And it advocated similar conferences on conservation in the future.

"We agree that further action is advisable to ascertain the present condition of our natural resources and to promote the conservation of the same; and to that end we recommend the appointment by each State of a Commission on the Conservation of Natural Resources, to cooperate with each other and with any similar commission of the Federal Government.

"We urge the continuation and extension of forest policies adopted to secure the husbanding and renewal of our diminishing timber supply, the prevention of soil erosion, the protection of headwaters, and the maintenance of the purity and navigability of our streams. We recognize that the private ownership of forest lands entails responsibilities in the interests of all the people, and we favor the enactment of laws looking to the protection and replacement of privately owned forests.

"We recognize in our waters a most valuable asset of the people of the United States. We especially urge on the Federal Congress the immediate adoption of a wise, active, and thorough waterway policy, providing for the prompt improvement of our streams and the conservation of their watersheds.

"We recommend the enactment of laws looking to the prevention of waste in the mining and extraction of coal, oil, gas, and other minerals with a view to their wise conservation for the use of the people, and to the protection of human life in the mines."

The declaration ended with this memorable sentence: "Let us conserve the foundations of our prosperity."

There were no evening sessions. In addition to a dinner at the White House on May 12, the governors were guests of the Washington Board of Trade at dinner on the 13th, at a reception to them and the Inland Waterways Commission at my home, where something like a thousand guests were received by my mother

on the 14th, and at a garden party given by Mrs. Roosevelt to the members of the conference and their ladies at the White House on the afternoon of the 15th.

Results of the governors' conference

The conference gave its members a conception of the land they lived in that was brandnew to nearly all of them. The impression it made upon them was profound. The governors especially came away with a conviction of national unity that had never dawned on most of them before. Governor Willson, of Kentucky, expressed the general attitude when he said: "There is not a man here, either governor or adviser, who will not go away from here a good deal better man than he came. No, not one of them."

The governors' conference on conservation was the first of its kind—the first not only in America, but in the world. It may well be regarded by future historians as a turning point in human history. Because it introduced to mankind the newly formulated policy of the conservation of natural resources, it exerted and continues to exert a vital influence on the United States, on the other nations of the Americas, and on the peoples of the whole earth.

The conference set forth in impressive fashion, and it was the first national meeting in any country to set forth, the idea that the protection, preservation, and wise use of the natural resources is not a series of separate and independent tasks, but one single problem.

It spread far and wide the new proposition that the purpose of conservation is the greatest good of the greatest number for the longest time.

It asserted that the conservation of natural resources is the one most fundamentally important material problem of all, and it drove home the basic truth that he planned and orderly development of the earth and all it contains is indispensable to the permanent prosperity of the human race. The great truth was never so true as now.

The governors' conference put conservation in a firm place in the knowledge and thinking of the people. From that moment it became an inseparable part of the national policy of the United States.

It is worth mention that this brilliant example of national foresight occurred not in a time of scarcity, not in a depression, but in a time of general abundance and well-being.

One concrete result of the conference was its declaration, so simple, sound, and fine that the President himself, and not a few of the rest of us, believed it should be posted in every schoolhouse in the United States.

A second consequence was that suddenly, almost in the twinkling of an eye, as the direct result of the conference, conservation became the characteristic and outstanding policy of T. R.'s administration, and has been more and more generally accepted as such ever since.

The third consequence, vastly more important, was that the policy of conservation was so well and wisely presented that it was instantly and universally accepted and approved by the people of the United States. I doubt whether any great policy, except perhaps in time of war, has ever been so effectively set forth and so generally adopted in so short a time as the conservation policy, when it was presented to the American people in the spring of 1908.

A fourth consequence, not yet generally realized or fully understood, but destined in time to become perhaps the most vital of all, is this: The conservation policy, if internationally applied, provides a basic foundation for permanent world peace.

The governors' conference made front-page news all over the United States, as was natural, and in many other parts of the world also, while it was in session. Afterward followed a flood of friendly editorials and magazine articles, with only here and there a touch of opposition in some trade paper or from an unusually alert and acrimonious political opponent. The general tone was of unstinted praise. Conservation became the commonplace of the time.

That is, conservation was universally accepted until it began to be applied. From the principle of conservation there has never been, because there could not be, any serious open dissent. Even when applied in practice to the other fellow, it was unattackable. But when it began to interfere with the profits of powerful men and great special interests, the reign of peace came to a sudden end.

From that day to this, men and interests who had a money reason for doing so, have fought conservation with bitterness, and in many cases with success. That war is raging still, and it is yet very far from being won.

APPENDIX B. NATIONAL DEFENSE REQUIREMENTS FOR OIL

1. MATERIALS POLICY COMMISSION REPORT OF 1952, EXCERPTS

(Vol. III, The Outlook For Energy Sources, ch. I: Oil)

THE SITUATION IN BRIEF

The United States is presently producing about half the world's oil on the basis of less than 30 percent of the world's proved reserves and of probably a considerably smaller fraction of the world's undiscovered deposits (p. 2).

The gravest problem is the threat to the wartime security of the free world implicit in the pattern of the world oil supply that is taking shape. The Eastern Hemisphere, and Europe in particular, is coming to depend on huge imports of oil from the Middle East, which must be considered more vulnerable to attack by a potential enemy than are Western Hemisphere sources (p. 2).

Oil is even more urgently needed in war than in peace, and sources of supply and transportation routes may be vulnerable to enemy attack. There is accordingly required a continuously operative joint Government-industry program of preparedness to meet a wartime emergency. A balanced reserve capacity to produce oil in the Western Hemisphere, and to transport and refine it, must be kept in being along with an ability to expand this capacity further in wartime as required (p. 2).

As free world dependence on vulnerable sources grows, emergency expansibility of production in secure areas must also grow.

There are two principal methods by which this end may be achieved: first, proved reserves may be set aside to be used only in an emergency; second, peacetime oil production may be so conducted that output can be greatly increased in a reasonable time (p. 2).

In particular, the development of the Continental Shelf should be so governed as to provide a basis for a large expansion of production in an emergency (p. 2).

USE AND SUPPLY IN THE UNITED STATES

Should domestic supplies of crude petroleum become inadequate and foreign crude supplies unavailable, the problem could be met over the long run not only through recourse to synthetics from oil shale and coal, * * * but also in part from a shift in the pattern of use. Coal, for example, could be used in many stationary heat and power applications, and more distillate could be used as diesel fuel (p. 3).

RESERVES AND DISCOVERIES

The petroleum industry is confident that, given a favorable economic and political environment, it can continue for a long time to meet the growing demands upon it. It is generally accepted, however, that at some time in the future the job will become considerably more difficult but there is a broad difference of opinion as to when that time can be expected. Its approach will be indicated fairly well in advance by two closely related developments: (1) failure to provide new discoveries sufficient to support the growth of production and (2) increased cost of discovering and developing oil relative to the general price level (p. 5).

SUPPLY FOR THE FREE WORLD

The rest of the free world consumed in 1950 only a little more than half as much oil as did the United States. Oil consumption can be expected to increase much more rapidly abroad than in the United States as the pattern of consumption overseas comes more closely to resemble that of this country. * * * Furthermore coal will probably continue to be much more expensive or less freely available in many countries abroad than in the United States. Some important industrial countries will find it necessary to import large amounts of energy fuels, and petroleum from the Middle East is likely to be the most economical form. Consequently, the oil demand of the rest of the free world can be expected to increase even more rapidly than in the United States, possibly increasing between three- and four-fold * * * (p. 9).

SAFEGUARDING SECURITY

As the scale of normal peacetime consumption grows, ever greater amounts of oil will be required for essential civilian needs in case of war. Moreover, the scale of military requirements can be expected to grow rapidly as well. At the same time the dependence of the free world on vulnerable supplies is also likely to

grow. Clearly the security problems in oil are likely to become increasingly difficult as time goes on * * *.

The problem must be approached on a world-wide basis. The United States cannot take undue comfort from the prospect that the Western Hemisphere will perhaps remain self-sufficient in oil for a long time. Its friends and allies in the Eastern Hemisphere will become increasingly dependent on the Middle East, but if supplies from that area should be substantially reduced in time of war, those allies would then have to be supplied from the remaining sources, largely in this hemisphere (p. 10).

* * * There is required the ability to achieve an extraordinary increase of crude oil production in secure areas, balanced with corresponding refining and transportation facilities first discussed (p. 10).

It has not been possible to guarantee the availability of reserve capacity of this magnitude (15 percent of annual consumption) up to now, because of the limited availability of steel. The oil industry has been able to obtain steel it needed to expand to meet rising demand, but not enough to provide a security cushion. As ample supplies of steel become available, however, the industry will probably be able to carry reserve capacity of 10 or 15 percent of demand.

Beyond this reserve capacity, there must be maintained the ability to expand production, refining, and transportation capacity rapidly enough to meet the developing requirements of a war and to offset losses that may be suffered * * *. The most important type of reserve production capacity in the long run will probably be the preservation of conditions that will permit an emergency campaign of well drilling to bring big returns in increased crude production * * * as time goes on special provisions are likely to be required to insure that Western Hemisphere crude production could be expanded quickly, easily, and be a great amount in the event of war (pp. 10-11).

BUILDING AN "UNDERGROUND" STOCKPILE

In theory, at least, the problem (stockpiling) could be eased by making extra efforts to find additional reserves prior to any emergency need and then "sterilizing" them, to be tapped only in the event of a national emergency * * * the Government's security reserves of oil would have to be greatly enlarged to be of any real consequence for the future (p. 11).

If the Government sought to build up and set aside large reserves of oil for possible war use, this would involve a prolonged and costly process of buying up private rights to established pools and could prove disruptive to the normal operations of the industry. Possibly a simpler course would be to set aside large portions of the oil lands underlying the Continental Shelf, which is still largely undeveloped but which is believed to contain vast amounts of oil. In either case, pools would have to be sufficiently drilled to determine their size and structure and to insure that they could be put to relatively prompt use in the event of war (p. 11).

The most attractive opportunity for approaching the security problem in this way is provided by the Continental Shelf. If private industry were permitted and encouraged to develop these large underwater oil resources and to overcome the technical difficulties involved, but in such a way as to keep the withdrawals at a rate that could be stepped up with reasonable speed in time of emergency, the Nation's security position in oil would be greatly strengthened. This could be accomplished by leasing arrangements (either by the Federal Government or, if a portion of the rights are awarded to adjacent States, then by State government) that would specify spacing of wells and rates of withdrawal, coupled with royalty charges sufficiently low to provide adequate incentive (p. 11).

CONSERVATION IN PRODUCTION

One other major form of waste—the drilling of too many wells—has been slower to feel the impact of State regulation; * * *. Little progress has so far been made in achieving a unified program of operations for each oil reservoir best fitted to the particular characteristics of that reservoir (p. 13).

In the absence of a unified operations program it is likely that wells tapping pools with multiple ownership will be located improperly for maximum efficiency of development, even where regulation provides for minimum spacing.

The principal obstacle to unified operation is the inevitable holdout, the leaseholder or royalty owner who thinks he can do better without the unit operation, even though the pool as a whole will do much better with unit operation * * *. It is up to the lawmakers and industry leaders to devise arrangements for achiev-

ing unified operating programs with proper respect for the rights of each leaseholder to his fair share. The problem, although difficult, does not appear insoluble.

All in all, though considerable progress has been made over the past 15 years toward greater conservation of oil resources, much room remains for further progress (p. 13).

2. RESOURCES IN CONTINENTAL SHELF, REPORT OF TEXAS ENGINEERS AND GEOLOGISTS

[Houston Post, Oct. 26, 1952]

RICH TIDELAND POTENTIAL CITED

ENGINEERS SAY ULTIMATE WORTH IS OVER \$80 BILLION

Far from being of no economic importance, the submerged lands off the shore of Texas are reported to hold gas, oil, and sulfur worth an estimated \$80 billion.

This "realistic forecast of the possible gross ultimate income" from the recovery of minerals under the offshore lands was made in a report issued Saturday by 18 Texas geologists and registered engineers.

The report said the evaluation was made because "a confusion has been established in the minds of people not only by the erroneous use of the term 'tidelands' but also by an attempt to establish these offshore submerged lands to be of no economic importance to the State of Texas."

The engineers' report, however, did not go into a legal definition of what constitutes the tidelands.

The original boundaries established by the Republic of Texas included a submerged strip offshore, 3 leagues or 10½ miles wide, running from the mouth of the Sabine River to the mouth of the Rio Grande.

In recent years the Texas Legislature first claimed possession for 27 miles offshore, then possession out to the edge of the Continental Shelf. The United States Supreme Court denied all three claims, holding that the Federal Government had a paramount right to all submerged lands lying seaward of mean low tide. In general, the Gulf States claim submerged lands for 3 leagues offshore, the Atlantic and Pacific States for 3 miles.

The Texas claim to the 3-league strip included in the original boundary of the Texas Republic has become a hot issue in the presidential campaign. Gov. Adlai Stevenson, the Democratic candidate, has said he agrees with Mr. Truman, who twice has vetoed congressional action which would have restored the strip to Texas.

Gen. Dwight D. Eisenhower, the Republican candidate, has said he favors State ownership of the tidelands.

The engineers' report, pointing out that loss of the tidelands means a real loss of large sums of money to Texas and Texans, concludes with these words:

"If the ownership to these potential oil, gas, and sulfur reserves is seized and nationalized by the Government in Washington, it not only means the loss of this future income to the State school fund that will have to be replaced by taxes, but will also remove these taxable values as a source of future ad valorem income required to offset the declining oil and gas values of the existing fields located on the adjacent onshore unsubmerged land areas."

The income to the Texas public-school fund would be a royalty of one-eighth of the income from minerals recovered from State-owned lands.

The \$80 billion estimate made by the engineers refers, however, to the income from those "Texas submerged-land areas, immediately adjacent to the gulf coastal belt of railroad commission districts 2, 3, and 4 extending for over 400 miles along the coastline having the same geological and structural features" as the unsubmerged lands lying inward from the coast.

This belt would extend 60 to 80 miles into the Gulf of Mexico.

"The vastness of the oil, gas, condensate, and sulfur potentialities in this submerged-land area is indicated by the discoveries made on the landward portion of this basin," the report states.

As of January 1, 1952, there were 1,085 oil and gas fields producing within a 100-mile belt along the Texas gulf coast, it says.

Production from these fields on that date had totaled 11.9 trillion cubic feet of gas, 5,046 billion barrels of oil and condensate, and 70.9 million long tons of sulfur.

Reserves estimated to exist in those fields total 50 trillion cubic feet of gas, 5,965 billion barrels of oil and condensate, and 50 million long tons of sulfur.

Adding these two sets of figures would give total discoveries of 61.94 trillion cubic feet of gas, 11.011 billion barrels of oil and condensate, and 120.9 million long tons of sulfur.

The estimate of future reserves is conservative, the report points out, because it does not include 70 new fields already discovered since the first of this year.

Assuming that the submerged lands have potentialities at least equivalent to the discoveries already made on unsubmerged lands, the engineers estimate the gross ultimate income from offshore lands in this wise:

From the gas, at 15 cents per 1,000 cubic feet, \$9.291 billion.

From the oil and condensate, at \$2.65 per barrel, \$29,179,150,000.

From the sulfur, at \$25 per long ton, \$3,022,500,000.

This gives a total of \$41,492,650,000.

But, the engineers say, potential production from the offshore lands is much greater "because of its greater area, better reservoir conditions, and the full use of modern methods of recovery."

Hence, the more "realistic forecast" is \$80 billion.

The engineers' report says the offshore lands have been built up thousands of feet by sediment deposited by rivers for millions of years.

"Folding, faulting, and uplifting through earth structural changes and piercement by salt masses," it said, "have resulted in the formation of reservoirs favorable for the accumulation of gas, oil, and sulfur."

Sea level has nothing to do with the occurrence of these traps and salt domes, it said.

It simply has been cheaper and easier heretofore to drill on dry land. But with increased demand for the minerals, methods were devised for drilling under water.

These underwater operations were conducted successfully off the coasts of Louisiana and Texas until the title to the lands was questioned by the Federal Government, after which all drilling was terminated on Texas submerged lands.

These Texas offshore lands, the report says, occur along the same structural trends and at similar depths to the large number of oil and gas fields and sulfur domes now being produced in southern Louisiana "on submerged areas raised above sea level by the great delta of the Mississippi River and its distributaries."

The 18 engineers who signed the report said they functioned as Texas citizens in making the study as a public service.

Houstonians who helped in the study include Alexander Duessen, Walter L. Goldston, Michael T. Halbouty, John S. Ivy, and Perry Olcott.

Others include David Donoghue and H. B. Fuqua, of Fort Worth; L. A. Douglas and William H. Spice, Jr., of San Antonio; George R. Gibson and Oliver C. Harper, of Midland; Dilworth S. Hager, of Dallas; James S. Hudnall, of Tyler; Charles P. McGaha, of Wichita Falls; Vincent C. Perini, of Abilene; Harry H. Power, of Austin; W. Armstrong Price, of Corpus Christi; and James D. Thompson, Jr., of Amarillo.

APPENDIX C: STATE DEPARTMENT DELINEATION OF NATIONAL TERRITORIAL WATERS

1. MR. JEFFERSON, SECRETARY OF STATE, TO MR. GENET, MINISTER OF FRANCE

GERMANTOWN, *November 8, 1793.*

SIR:

I have now to acknowledge and answer your letter of September 13, wherein you desire that we may define the extent of the line of territorial protection on the coasts of the United States, observing that Governments and juriconsults have different views on this subject.

It is certain that, heretofore, they have been much divided in opinion as to the distance from their sea coasts, to which they might reasonably claim a right of prohibiting the commitment of hostilities. The greatest distance, to which any respectable assent among nations has been at any time given, has been the extent of the human sight, estimated at upwards of twenty miles, and the smallest distance, I believe, claimed by any nation whatever, is the utmost range of a cannon ball, usually stated at one sea-league. Some intermediate distances have also been insisted on, and that of three sea-leagues has some authority in its favor. The character of our coast, remarkable in considerable parts of it for admitting no vessels of size to pass near the shores, would entitle us, in reason, to as broad

a margin of protected navigation, as any nation whatever. Not proposing, however, at this time, and without a respectful and friendly communication with the Powers interested in this navigation, to fix on the distance to which we may ultimately insist on the right of protection, the President gives instructions to the officers, acting under his authority, to consider those heretofore given them as restrained for the present to the distance of one sea-league, or three geographical miles from the sea shores. This distance can admit of no opposition, as it is recognised by treaties between some of the Powers with whom we are connected in commerce and navigation, and is as little or less than is claimed by any of them on their own coasts.

Future occasions will be taken to enter into explanations with them, as to the ulterior extent to which we may reasonably carry our jurisdiction. For that of the rivers and bays of the United States, the laws of the several States are understood to have made provision, and they are, moreover, as being landlocked, within the body of the United States.

Examining, by this rule, the case of the British brig *Fanny*, taken on the 8th of May last, it appears from the evidence, that the capture was made four or five miles from the land, and consequently without the line provisionally adopted by the President, as before mentioned.

I have the honor to be, &c.

TH: JEFFERSON.

2. MR. JEFFERSON, SECRETARY OF STATE, TO MR. HAMMOND, BRITISH MINISTER

GERMANTOWN NOV. 8, 1793.

SIR,—The President of the United States thinking that before it shall be finally decided to what distance from our sea shores the territorial protection of the United States shall be exercised, it will be proper to enter into friendly conferences & explanations with the powers chiefly interested in the navigation of the seas on our coast, and relying that convenient occasions may be taken for these hereafter, finds it necessary in the mean time, to fix provisionally on some distance for the present government of these questions. You are sensible that very different opinions & claims have been heretofore advanced on this subject. The greatest distance to which any respectable assent among nations has been at any time given, has been the extent of the human sight, estimated at upwards of 20. miles, and the smallest distance I believe, claimed by any nation whatever is the utmost range of a cannon ball, usually stated at one sea-league. Some intermediate distances have also been insisted on, and that of three sea leagues has some authority in its favor. The character of our coast, remarkable in considerable parts of it for admitting no vessels of size to pass near the shores, would entitle us in reason to as broad a margin of protected navigation as any nation whatever. Reserving however the ultimate extent of this for future deliberation the President gives instructions to the officers acting under his authority to consider those heretofore given them as restrained for the present to the distance of one sea-league or three geographical miles from the sea shore. This distance can admit of no opposition as it is recognized by treaties between some of the powers with whom we are connected in commerce and navigation, and is as little or less than is claimed by any of them on their own coasts. For the jurisdiction of the rivers and bays of the United States the laws of the several states are understood to have made provision, and they are moreover as being landlocked, within the body of the United States.

Examining by this rule the case of the British brig *Fanny*, taken on the 8th of May last, it appears from the evidence that the capture was made four or five miles from the land, and consequently without the line provisionally adopted by the President as before mentioned.

3. FOR MR. DULLES, SECRETARY OF STATE, TO SENATOR HUGH BUTLER,
MARCH 4, 1953

DEPARTMENT OF STATE,
Washington, March 4, 1953.

Hon. HUGH BUTLER,
*Chairman, Committee on Interior and Insular Affairs,
United States Senate, Washington, D. C.*

MY DEAR SENATOR BUTLER: Reference is made to your letter of January 28, 1953, receipt of which was acknowledged January 30, 1953, transmitting for the

comment of the Department of State Senate Joint Resolution 13, to confirm and establish the titles of the States to lands beneath navigable waters within State boundaries and to the natural resources within such lands and waters, and to provide for the use and control of said land and resources.

The interest of the Department in the proposed legislation is limited to the bearing which it may have upon the international relations of the United States.

With respect to claims of States in the seas adjacent to their coasts, the general policy of the United States is to support the principle of freedom of the seas. Such freedom is essential to its national interests. It is a time-honored principle of its concept of defense that the greater the freedom and range of its warships and aircraft, the better protected are its security interests. It is axiomatic of its commercial interests that the maintenance of free lanes and air routes is vital to the preeminence of its shipping tonnage and air transport. And it is becoming evident that its fishing interests depend in part, and may come more so to depend in the future, upon fishing resources in seas adjacent to the coasts of foreign states.

Pursuant to its policy of freedom of the seas, this Government has always supported the concept that the sovereignty of coastal States in seas adjacent to their coasts (as well as the lands beneath such waters and the airspace above them) was limited to a belt of waters of 3 miles width, and has vigorously objected to claims of other States to broader limits. In the circumstances, the Department is much concerned with the provisions of Senate Joint Resolution 13 which would permit the extension of the seaward boundaries of certain States of the United States beyond the 3-mile limit traditionally asserted by the United States in its international relations. Such an extension of boundaries would compel this Government, now committed to the defense of the 3-mile limit in the interest of the Nation as a whole, to modify this national policy in order to support the special claims of certain States of the Union, for obviously, the territorial claims of the States cannot exceed those of the Nation. Likewise, if this Government were to abandon its position on the 3-mile limit it would perforce abandon any ground for protest against claims of foreign states to greater breadths of territorial waters. Such a result would be unfortunate at a time when a substantial number of foreign states exhibit a clear propensity to break down the restraints imposed by the principle of freedom of the seas by seeking extensions of their sovereignty over considerable areas of their adjacent seas. A change of position regarding the 3-mile limit on the part of this Government is very likely, as past experience in related fields establishes, to be seized upon by other states as justification or excuse for broader and even extravagant claims over their adjacent seas. Hence a realistic appraisal of the situation would seem to indicate that this Government should adhere to the 3-mile limit until such time as it is determined that the interests of the Nation as a whole would be better served by a change or modification of policy.

It should be noted, moreover, that the interest of the United States in resources in the high seas has in nowise been affected by its adherence to the 3-mile limit of territorial waters. The claim of the United States in the President's proclamation of September 28, 1945, to jurisdiction and control of the natural resources of the subsoil and seabed of the Continental Shelf beyond the limit of its territorial waters has not been questioned. These resources were thus secured without recourse to an extension of its territorial waters and as a result, navigation in the high seas off its coasts remains free and unimpeded as befits this country's dedication to the principle of freedom of the seas and in sharp contrast to the actions of some foreign states which sought the same result by assertions of sovereignty over immense areas of the high seas.

It is the view of the Department, therefore, that the proposed legislation should not support claims of the States to seaward boundaries in excess of those traditionally claimed by the Nation, i. e., 3 miles from the low-water mark on the coast. This is without reference to the question whether coastal States have, or should have, rights in the subsoil and seabed beyond the limits of territorial waters.

In section 2 of the Senate Joint Resolution 13, page 3, lines 3 to 5, inland waters are defined as including "all estuaries, ports, harbors, bays, channels, straits, historic bays, and sounds, and all other bodies of water which join the open sea". This definition appears to be too broad. With respect to bays and estuaries, the United States has traditionally taken the position that the waters of estuaries and bays are inland waters only if their opening is no more than 10 miles wide, or, where such opening exceeds 10 miles, at the first point where it does not exceed 10 miles. With respect to a strait which is only a channel of communication to an inland body of water, the United States has taken the position that the rules

governing bays should apply. So far as concerns a strait connecting 2 seas having the character of high seas, whether the coasts of the strait belong to a single State or to 2 or more States, the United States has always adhered to the well-established principle of international law that passage should be free in such a strait and hence has maintained that its waters, even though to be 6 miles wide or less, cannot be inland waters. With respect to both bays and straits, of course, the United States has excepted the cases where, by historical usage, such waters are shown to have been traditionally subjected to the exclusive authority of the coastal State.

The purpose of this Government in adopting such a definition of inland waters was to give effectiveness to its policy of freedom of the seas. The broader the definition of inland waters, the more the seaward limit of inland waters is brought forward from the coast. And since the seaward limit of inland waters is the base line whence the belt of territorial waters is measured, this by cumulative effect brings forward the outer limits of territorial waters. Of late, efforts have been made by some foreign states to broaden the definition of their inland waters and to gain control thereby of large areas of the seas adjacent to their coasts. This Government has opposed and continues to oppose such developments, but any indication on its part of a change of position, such as may be suggested by the broad definition of inland waters now present in the proposed legislation, may well encourage the growth of a dangerous trend. Hence, in the view of the Department it would be advisable to amend section 2 of the proposed legislation, page 3, lines 3 to 5, as follows:

“* * * limit of inland waters in estuaries, ports, harbors, bays, channels, straits, sounds and all other bodies of waters which join the open sea.”

The Department has been informed by the Bureau of the Budget that there is no objection to the submission of this report.

Sincerely yours,

THRUSTON B. MORTON,
Assistant Secretary
(For the Secretary of State).

APPENDIX D. THE TEXAS CLAIMS

1. HISTORICAL REVIEW

Submerged lands not included in those public lands reserved by the 1845 Act of Admission

The joint resolution of March 1, 1845 (5 Stat. 797) annexing Texas to the United States contained a provision that the State was to “retain all the vacant and unappropriated lands lying within its limits, to be applied to the payment of the debts and liabilities of said Republic of Texas, and the residue of said lands, after discharging said debts and liabilities, to be disposed of as said State may direct * * *.”

The marginal seas were not considered to be within the class of “vacant and unappropriated lands.”—It is more than clear that the purpose of retaining the vacant and unappropriated land was for the payment of the public debt. The commonly accepted definition of “public lands,” both by the Republic of Texas and by the United States excluded the submerged lands of the marginal sea from the general term of “public lands.”

(A full definition of the historical use of the term “public lands” is developed in brief for the United States in support of motion for judgment, *U. S. v. State of Texas*, October term, 1949, pp. 22-34.)

Certainly if it had been the intent of the Congress and of Texas to provide for the sale of submerged lands in addition to the “vacant and unappropriated lands” in order to pay the public debt, these lands would have been specifically mentioned. The extensive debates and correspondence which developed over this proposition clearly show that all parties considered the “vacant and unappropriated lands” to be the equivalent of “public lands.”

(a) *Report of committee of Texas Constitutional Convention clearly shows submerged lands not included in its estimates.*—A special committee of the Texas Constitutional Convention was appointed to inquire into the amount of “appropriated and unappropriated domain * * *” in Texas and the value of such lands with a view to payment of the Texas debt (appendix D-2).

It is clear from this report that none of the lands listed included submerged lands of the marginal sea. It is also evident that these were “public lands”

which could be sold for settlements and farms as the population moved westward.

"* * * one-half of this country is suitable for the *occupancy of the agriculturists*. Deducting then one-half for sterile wastes and mountain ranges * * * It would seem to the Committee to be the imperious duty of the Convention to reclaim from the unjust and unprincipled speculators, those large districts and tracts of *country*." [Italics supplied.]

(b) *Debates in the Texas Convention clearly show that these were "public lands" to be sold for occupancy.*—Mr. Jewett of Robertson County in debating the land issued during the Texas Constitutional Convention clearly showed that the lands under discussion were for occupancy and lands where persons could locate homesteads or farms. He said in part:

"The first and most sacred pledge on the part of the government, was that which gave the *lands to the soldiers* after the revolution of 1836. The Republic had then no money to give, and she did promise to give them all that was in her power, to wit, lands * * * if with an honest view of liquidating her public debt, she suspends these contracts, and *throws open these lands to location* she is but doing an act of justice which will remain a bright and not a dark spot on our national escutcheon." [Italics supplied.] (Debates of the Texas Convention, by Wm. F. Weeks, reporter, published by authority of the Convention, Houston; 1846, J. W. Cruger; pp. 607-608.)

In a proposed ordinance offered by Mr. Jewett providing for the settling of contracts for "vacant and unappropriated lands" the following language again indicates that these lands were to be used for settlements.

"Whereas, the various contractors who have entered into contract with the President of Texas, for *settling the vacant and unappropriated lands* of the Republic, have generally failed in *establishing their settlements*, and giving that protection * * *." (Ibid., p. 685.) [Italics supplied.]

Mr. Lowe of Galveston, a member from the Gulf coast of Texas, indicated that: "We, by a solemn act of legislation, and in our Constitution first declared, that all the *public domain should be subject to location* under the claims of men, who participated in the revolution." (Ibid., p. 683.) [Italics supplied.]

From these and many other sections of the debates in the convention it is perfectly clear that the members of the convention thought of "vacant and unappropriated lands" as public lands of the public domain on which settlements could be made. There is no mention of submerged lands or areas within the marginal seas.

(c) *Only recently did the commissioner of the State's general land office include lands under the Gulf in accounting for the disposition of the State's public domain.*—The Government's brief in *U. S. v. Texas* (340 U. S. 707) makes an analysis of the listings of the public domain and more specifically the land included under the phrase "vacant and unappropriated land." The brief points out " * * * that until recent years the commissioner of the State's general land office has not included lands under the gulf, in accounting for the disposition of the public domain. Thus, his 1880 report showed the total area of State's domain as 172,604,160 acres, comprising 151,811,390 acres already granted or reserved for specified purpose, 1,722,880 acres of bays, and 19,069,890 acres subject to location * * *. His report in 1936 estimated the total area as 170,936,080 acres, comprising 165,853,244 acres already surveyed and granted or reserved for specified purposes, 1,500,000 acres unsurveyed in 'coastal areas, riverbeds, and vacancies,' and excesses in surveys, less loss due to conflicts, estimated at 3,500,000 acres * * *. Neither tabulation included lands below the low-water mark in the gulf. Such lands were not within any of the enumerated grants or reservations; neither were they included in lands subject to location * * *. However, in his History and Disposition of Texas Public Domain included in the Report of the Second Texas Surveyors' Short Course, published by the general land office in 1941, the commissioners gave 170,926,000 acres as the total area of the State to the 3-mile limit, and the total area to the 3-league limit as 172,687,000 acres of which 3,250,000 acres are in the submerged lands * * *. This appears to be his first inclusion of the gulf lands in any itemization of the State's public domain." (Brief for the United States, *U. S. v. Texas* (op. cit., pp. 33-34).)

For almost 100 years, until 1941, no mention or inclusion was made by the reports of the general land office of submerged lands under the sea in the Gulf of Mexico as being in the public domain of the State of Texas. Only recently has the definition of "vacant and unappropriated lands" been enlarged to include offshore submerged lands.

Texas transferred all defense and foreign-affairs functions to the United States.—The joint resolution of March 1, 1845 (5 Stat. 797), contained two specific state-

ments which clearly indicate that the "vacant and unappropriated lands" did not extend to the submerged lands of the marginal sea. The first of these was that Texas ceded to the United States "all public edifices, fortifications, barracks, ports, and harbors, navy and navy yards, docks, magazines, arms, armaments, and all other property and means pertaining to the public defense belonging to said Republic of Texas * * *." The second key provisions contained in the annexation resolution reserved to the United States the right to adjust "*all questions of boundary that may arise with other governments.*" [Italics supplied.]

(a) *The marginal seas certainly were as important to the defense of Texas as the ports and harbors which were specifically ceded.*—At the time of the negotiations with the United States for annexation, Texas was eager to obtain the protection of the United States forces in aiding in defending this territory from possible attack from Indians and the Republic of Mexico. The historical development of a marginal sea belt surrounding a nation was developed by international lawyers out of a desire to protect a country from attack from the seas. The concept of a 3-mile belt came directly from the fact that cannons could fire no more than 3 miles.

It is only reasonable to suggest that the territorial sea was ceded expressly as "other property and means pertaining to the public defense," when control of such seas and submerged lands was and is essential to the United States in defending this part of the coastline. Ports and harbors which were specifically ceded because of their close connection with defense of the coast, would have meant little to the United States in providing for defense if the State of Texas was to reserve paramount rights for itself over the marginal sea and its submerged lands.

"The 3-mile rule is but a recognition of the necessity that a government next to the sea must be able to protect itself from dangers incident to its location" (*United States v. California* (322 U. S. 19, 35)).

(b) *The United States was granted the power to adjust the Texas boundary in questions arising with other governments.*—The matter of extent of territorial waters into the high seas is clearly a matter in which questions of boundary adjustment would involve other governments. The boundary clause in the annexation resolution was more than a mere recognition of retaining the power to conduct foreign affairs in the Federal Government, it was a recognition that the boundary question at that time was extremely important in maintaining peace with Mexico. The marginal sea in the Gulf of Mexico was a potential subject of grave international disputes involving not only Mexico, but England and many other countries. The concern of England over the extent of the marginal belt in the gulf was clearly shown by the diplomatic correspondence which resulted from the signing of the Treaty of Guadalupe Hidalgo (9 Stat. 922).

In summary, it is clear that the retention by Texas of the "vacant and unappropriated lands" left no claim to the submerged lands of the marginal sea. The Supreme Court of Texas in 1859 clearly pointed out that in resolving intergovernmental land-grant disputes of this type definite consideration must be given to the "character of the contracting parties," the "object of the party" seeking rights to the lands, the "uses and purposes to which such property * * * is to be applied," and "its immediate connexion" with the interest "of which the government is the protector" (*City of Galveston v. Menard* (23 Tex. 349, 396)). By any and all of these tests it must be clear that the paramount rights and control of the marginal belt and its submerged land was vested in the Federal Government. As with this and other State controversies, however, the matter has been decided by the Supreme Court of the United States, and Congress and the States are bound by that decision.

The existence of an independent Republic of Texas before the State entered the Union has no bearing on this problem

The existence of an independent Republic of Texas and the nature of its constitution and laws have no bearing on this problem. The disposition of the territorial waters of the coast of Texas must be judged by the Constitution of the United States and the annexation resolution under which Texas was admitted to the Union. A joint resolution adopted by the State Legislature of Texas on April 29, 1846, makes the point self-evident (Laws 1st Tex. Legis. 155). Again, this assertion is simply an effort to reargue the cases already decided by the Supreme Court.

Texas was not admitted to the Union by a treaty.—As a matter of historical interest, however, it should be noted that the initial proposal for admitting Texas to the Union was embodied in a treaty which was specifically rejected by the United States Senate (Congressional Globe, 28th Cong., 1st sess., p. 652;

June 8, 1844). It has been suggested that the principal reason for the Senate's rejection of the treaty was the provision which would have permitted the United States to retain the "vacant and unappropriated lands" in exchange for the assumption of the Texas public debt. While this was no doubt opposed, the much broader issues leading to the rejection of the treaty included: (1) Fear that the treaty would result in a war with Mexico; (2) the question of slavery in the new State; (3) a feeling that the treaty powers were being used to initiate a war with Mexico; (4) the failure of France or England to interfere in the controversy; and (5) a complex political struggle for power in the Congress. Certainly in view of these matters the assumption of the Texas debt takes on minute proportions. (Smith, J. E., *The Annexation of Texas*, New York, 1941, Barnes and Noble, pp. 258-280.)

The actual admission of Texas took place through a joint resolution providing for annexation. It did not have the aura of a treaty or international agreement between two sovereigns, and cannot be construed as having any greater legal status under the Constitution than similar acts of admission.

The debates in the Texas Constitutional Convention and the journals of the convention clearly indicate that the Government of the Republic was abolished.—Mr. Brown, a delegate from Colorado County to the constitutional convention in 1845, stated that "Without a government, they have sent us here to form one, and out of complacency to them and for the sake of democracy we are to leave them without a government yet" (*Debates of the Convention*, op. cit., p. 175). [Italics supplied.]

Mr. Rusk, the president of the convention, stated that "We are making here a State constitution; we have acknowledged the supremacy of the Constitution of the United States of America" (*ibid.*, p. 618). The chairman of the convention's committee of the state of the nation, Mr. John Caldwell, stated in a letter to the president of the convention: "The committee on the state of the nation, to whom was referred the difficult and complicated task of providing for the *abolition* of the present government, and to adopt and establish in lieu thereof, a government for the State of Texas, as a separate and independent State of the American confederacy * * *" (*Journals of the Convention*, op. cit., p. 265). [Italics supplied.]

The ordinance for the abolition of the government of the Republic of Texas provided in part:

"Be it further ordained by the authority aforesaid, That to prevent inconvenience or embarrassment from resulting to the people of Texas from the change of the government which is about to be effected, by the *abolition* of the present existing government of the Republic of Texas, and the establishment of a State government * * *" (*ibid.*, p. 269). [Italics supplied.]

The Republic of Texas had no recognized proprietary rights in the submerged lands of the marginal sea, as such a concept had not been developed.—The Republic of Texas had no recognized proprietary rights in the submerged lands of the marginal sea. (See Brief for the United States, *U. S. v. Texas*, op. cit., pp. 44-52.)

The government of the State of Texas can be said to have succeeded only to matters pertaining to the internal and domestic sovereignty, not to those matters covered by national external sovereignty of the United States. The matter of control and ownership of the marginal sea was not considered by the Republic of Texas to have been a function of its local branches of government. The control of public lands under the Republic was vested in the general land office which was organized on a county basis. Under the laws of Texas the county boundaries stopped at the shoreline. Likewise the judicial districts were organized on county lines. Thus the control of the marginal sea could only be construed as a matter of external sovereignty, and not one of internal sovereignty.

It is impossible to comprehend how a matter of external sovereignty resulting from the independence of the Republic of Texas as a member of the family of nations, could be retained when Texas became a State under the Federal Government which retains paramount rights in matters of external sovereignty for all the constituent States.

Texas was admitted to the Union on "equal footing" with the other States.—The joint resolution of December 29, 1845 (9 Stat. 108), providing for the admission of the State of Texas into the Union, contains the following clause: "That the State of Texas shall be one, and is hereby declared to be one, of the United States of America, and admitted into the Union on an equal footing with the original States in all respects whatever." [Italics supplied.]

There is no question that the members of the Texas Constitutional Convention clearly understood what this clause meant. Mr. Ochiltree said in part:

"* * * The people have determined from one end of the land to the other, to go into the American Union, and to abide all the consequences of their choice. They ask no exclusive privileges; they would not willingly accept any privileges granted to them, and denied to every other member of the Confederacy.* * * I believe the people have determined to accomplish the great measure of annexation at every risk, regardless of consequences" (Debates of the Convention, op. cit., p. 47).

Mr. Henderson, speaking to this same point some time later in the convention stated: "* * * I can see no difference as regards the *terms of the compact* and political privileges between the admission of North Carolina then and that of Texas now" (ibid., p. 581). [Italics supplied.]

The Supreme Court in the Texas case stated:

"When Texas came into the Union, she ceased to be an independent nation. She then became a sister State on an 'equal footing' with all other States. That act concededly entailed a relinquishment of some of her sovereignty. The United States then took her place as respects foreign commerce, the making of treaties, defense of the shores, and the like. In external affairs the United States became the sole and exclusive spokesman for the Nation. *We hold that as an incident to the transfer of that sovereignty any claim that Texas may have had to the marginal sea was relinquished to the United States.*" [Emphasis supplied.]

At one time it was claimed that the Original Thirteen States held title to the marginal 3-mile belt and the submerged lands. The Supreme Court has clearly indicated that this was not the case (*U. S. v. Calif.*, 332 U. S. 19; *U. S. v. Texas*, 339 U. S. 707; *U. S. v. La.*, 339 U. S. 699). Not only is a Texas claim to 3 miles not valid under the "equal footing" clause, but certainly a claim to 3 leagues would not have placed Texas on an "equal footing" had the 3-mile claim been held valid for the original States.

The Treaty of Guadalupe Hidalgo did not establish the seaward boundaries off the coast of Texas in the Gulf of Mexico

A major contention of those supporting the special claim of Texas to marginal sea belt extending 3 leagues into the Gulf of Mexico has been that this claim was recognized in the Treaty of Guadalupe Hidalgo between the United States and Mexico ratified after the State of Texas was admitted to the Union in 1845.

The clause in question is contained in article V of the treaty:

"The Boundary line between the two Republics shall commence in the Gulf of Mexico, three leagues from land, opposite the mouth of the Rio Grande, otherwise called Rio Bravo del Norte, or opposite the mouth of its deepest branch, if it should have more than one branch emptying directly into the sea." (5 Miller Treaties 213) (9 Stat. 922).

This treaty established a line between United States and Mexico at only one point on the coast.—Reference to the map shows the exact nature of this line. The map contains no signs of a seaward boundary off the coasts of the United States and Mexico. This is clearly a boundary line between the United States and Mexico at 1 specific point where the 2 countries have a boundary point on the coast.

Further reading of article V of the Treaty of Guadalupe Hidalgo will show that where the boundary line was located on the west coast of the two countries the line was only drawn to the coast and was not extended 3 leagues into the sea. The exact wording on the western boundary is "* * * thence across the Rio Colorado, following the division line between upper and lower California, to the Pacific Ocean." [Italics supplied.] Certainly if such a device was to be used to delimit the extent of territorial waters it would have applied uniformly throughout the entire treaty.

The boundary at the mouth of the Rio Grande presented special problems.—Since 1799 the United States has reserved the right to board vessels up to 12 miles from shore for custom purposes (1 Stat. 648). A particular problem involving the control of smuggling activities presented itself in the area at the mouth of the Rio Grande. It was only logical that a line following the widest channel into the river should be extended a sufficient distance to indicate the area in which customs officials of the United States Government could board vessels within 12 miles of the United States shore. This is substantiated in the interpretations of this treaty by the Department of State as far back as 1875 (Mr. Fish, Secretary of State, to Sir Edward Thornton, British Minister in Washington, January 22, 1875).

It was desirable to mark the main channel entering the Rio Grande for the purposes of navigation control.—Both the text of article V of the Treaty of Guadalupe

Hidalgo and the memorandums and letters which passed between the United States and Mexican officials charged with the actual plotting of the line indicate (appendix —) that the line was to be used to show the main channel into the river, and soundings were to be carried out on each side of the line to expedite the entrance of vessels. It is especially noteworthy that the boundary between lower and upper California established by this same treaty did not represent a navigable river and thus the line was not carried into the sea (art. V, 1893, Treaty Guadalupe Hidalgo (9 Stat. 926-927)).

The United States Department of State for over 100 years consistently interpreted the Treaty of Guadalupe Hidalgo as not establishing the international seaward boundary off the coasts of Mexico and Texas.—On October 12, 1949, Senator Tom Connally of Texas addressed a letter to the Department of State placing the following three questions to the Department concerning the seaward boundaries off the coasts of Texas and Mexico:

"1. Does the Department of State recognize the 3-league boundary of Texas in the Gulf of Mexico as binding upon Mexico and its citizens?

"2. Does the Department of State recognize the 3-league boundary of Texas in the Gulf of Mexico as binding upon the United States and its citizens?

"3. Are there now pending in the Department any objections from other nations to this boundary and 3-league area of territorial waters off the coast of Texas?"

The Department of State replied to Senator Connally's letter on December 30, 1949, outlining the position of the United States at that time and attaching a long series of diplomatic correspondence going back to the year 1848 covering the interpretation and effect of article V of the Treaty of Guadalupe Hidalgo.

The letter to Senator Connally stated that "Accordingly, this United States Government claims and asserts an extent of territorial waters in the Gulf of Mexico and elsewhere along its coasts of 3 marine miles. It does not recognize any claim other than its own as binding on the relations of the United States with foreign nations. *It does not, therefore, recognize the Texas claims of 3 leagues as binding for international purposes and does not recognize the Texas claim as binding upon Mexico or the nationals of Mexico.*" [Italics supplied.]

Certain excerpts from the diplomatic correspondence on this point follow:

Mr. Buchanan to Mr. Crampton, August 19, 1948:

"In answer, I have to state, that the stipulation in the treaty can only affect the rights of Mexico and the United States. If for their mutual convenience it has been deemed proper to enter into such an arrangement, third parties can have no just cause for complaint. The Government of the United States never intended by this stipulation to question the rights which Great Britain or any other power may possess under the law of nations."

Mr. Seward to Mr. Welles, September 3, 1863:

"It was intended, however, to regulate within those limits the rights and duties of the parties to the instrument only. It could not affect the rights of any other power under the law of nations."

Mr. Fish to Sir E. Thornton, January 22, 1875:

"We have always understood and asserted that, pursuant to public law, no nation can rightfully claim jurisdiction at sea beyond a marine league from its coast * * *. In respect to the provision in the treaty with Mexico, it may be remarked that it was probably suggested by the passage in the act of Congress referred to (12-mile customs rule) and designed for the same purpose, that of preventing smuggling."

Mr. Wilson to Mr. Wilmot, June 16, 1909:

"In reply you are advised that this Government has always adhered to the principle that its maritime jurisdiction extends for a distance of 1 marine league * * * from its coasts."

Mr. De L. Boal to Senor General Hay, June 3, 1936:

"That portion of article V of the treaty of 1848, which the Mexican Foreign Office quotes, *relates only to the boundary line at a given point and furnishes no authority for Mexico to claim generally that its territorial waters extend 9 miles from the coast* * * *. Presumably it is true as indicated by a note sent by this Department to the British Minister of January 22, 1875, that the arrangement thus made between the United States and Mexico with respect to the *Gulf of Mexico* was designed to prevent smuggling in the particular area covered by the arrangement * * *. To say that because the United States agreed that in one area, so far as the United States was concerned, Mexican territorial waters extended 3 leagues from land, therefore Mexico was entitled to claim such an extent of territorial waters adjacent to her entire coast line is a deduction which the terms of article V of the treaty of 1848 do not warrant." [Italics supplied.]

Mr. Jack Tate, Deputy Legal Advisor, testifying before the Senate Interior and Insular Affairs Committee, March 3, 1953, at the submerged lands hearings, answered the questions of Senator Anderson, as follows:

"Senator ANDERSON. It does say: 'The claims of Texas, on the other hand, to control nationals of foreign nations within 3 leagues of its coast presents an issue of international law on which the Department is compelled to take the position that it does not recognize Texas' jurisdiction beyond the 3-mile limit.'

"Mr. TATE. That is right.

"Senator ANDERSON. Do you think this is sound?

"Mr. TATE. That is right * * *.

"Senator ANDERSON. At least the claim of the United States at that time, as it has been since the first position taken by Thomas Jefferson at the suggestion of George Washington, has been 3 miles.

"Mr. TATE. As far as I know, there never has been any differentiation from it."

The Gadsden Treaty of 1853 between the United States and Mexico did not set the limits of territorial waters.—The Gadsden Treaty between the United States and Mexico, ratified in 1853 (10 Stat. 1031), has been used as additional evidence that the claims of Texas were approved by treaty. The same arguments which have been developed above concerning the Treaty of Guadalupe Hidalgo of 1848 relate to the applicability of the Gadsden Treaty on this point.

The wording of the Gadsden Treaty which is pertinent is as follows:

"* * * retaining the same dividing line between the two Californias as already defined and established, according to the 5th article of the treaty of Guadalupe Hidalgo, the limits between the two republics shall be as follows: beginning in the Gulf of Mexico, three leagues from land, opposite the mouth of the Rio Grande, as provided in the 5th article of the treaty of Guadalupe Hidalgo * * *" (10 Stat. 1032).

The Convention of 1838 between the United States and the Republic of Texas establishing the northern boundary did not extend the boundary 3 leagues into the Gulf of Mexico.—In 1838 the United States and the newly formed Republic of Texas entered into a convention to establish a boundary line between the two Republics. This convention is especially important in analyzing the true intent of article 5 of the Treaty of Guadalupe Hidalgo since it represents a boundary line with the independent Republic of Texas terminating at the mouth of a river at the time the Republic of Texas claimed an extent of Territorial waters 3 leagues into the Gulf.

The convention provided for the appointment of commissioners to "proceed to run and mark that portion of said boundary which extends from the mouth of the Sabine, where that river enters the Gulf of Mexico, to the Red river" (8 Stat. 511). [Italics supplied.]

The joint commission was formed and actually began running the line from the mouth of the Sabine River, and not 3 leagues from the mouth into the Gulf.

"On the 21st we proceeded to the entrance of the Sabine River into the Gulf of Mexico, and then, in virtue of our respective powers, and in conformity to the provisions of the convention between the two countries * * * we established the point of beginning of the boundary between the United States and the republic of Texas at a mound on the western bank of the junction of the river Sabine with the sea." (S. Doc. 199, 27 Cong., 2d sess., p. 59).

Thus a boundary line was agreed to between the two Republics, beginning at the mouth of a river emptying into the Gulf of Mexico at a time when Texas claimed Territorial water extending 3 leagues into the Gulf. No mention was made of a line extending 3 leagues into the sea between the two Republics, and the boundary commission took no notice of such a line.

At no time after the Republic of Texas had proclaimed its seaward boundaries extending 3 leagues in the Gulf of Mexico did the United States or any other nation by treaty or convention with the Republic recognize this seaward boundary. In addition the 1819 Treaty of Amity with Spain (8 Stat. 252) and the 1828 Treaty with Mexico (8 Stat. 372), both of which set the boundary line with the United States along the Sabine River, did not extend this line 3 leagues into the Gulf, even though Spain and Mexico claimed a seaward boundary of 3 leagues.

This is certainly added evidence that the line at the mouth of the Rio Grande extending 3 leagues into the Gulf established by the Treaty of Guadalupe Hidalgo was drawn for other purposes than establishing the extent of Territorial waters off the State of Texas and Mexico.

The 1850 Texas Boundary Act established the southern boundaries of the State of Texas as following the Rio Grande River "to the Gulf of Mexico"

The Texas Boundary Act of 1850 (9 Stat. 466) approved by the Texas Legislature (act of 25 November 1850; 1870 Texas Digest of Laws 193), and proclaimed by President Fillmore (9 Stat. 1005, 1006), carried the title "An Act proposing to the State of Texas the establishment of her northern and western boundaries * * *." However, in describing the boundaries on the west, the act runs the line along the Rio Grande "to the Gulf of Mexico."

It has been contended that since the act was only concerned with the "northern and western boundaries" the extension of the southern boundaries in the text does not bind the State of Texas with regards to her southern boundary. Certainly the failure to continue the southern boundary line to a point 3 leagues into the Gulf of Mexico from the mouth of the Rio Grande, as had been done in the Treaty of Guadalupe Hidalgo only 2 years previous, raises very fundamental questions as to the actual extent of the Texas boundary line into the Gulf of Mexico, since by this act:

"The State of Texas cedes to the United States all her claim to territory exterior to the limits and boundaries which she agrees to establish by the first article of this agreement."

The United States paid to Texas the sum of \$10 million in consideration of the establishment of these boundaries. This is approximately the same amount which only 5 years previous had been proposed for compensation for the retention by the United States of all public lands within the boundaries of the State of Texas.

It should be stated again, however, that "boundary" does not include "ownership," and within the actual boundary line, the rights of the United States are paramount.

The recognition of a special historical claim to 3 leagues of territorial water off the State of Texas will lead to "historical limit" claims by many other coastal States

Texas and presumably Florida make special "historical" claims to expanses of the marginal sea extending beyond the traditional 3-mile limit. If these claims were to be recognized by Congress in some form of submerged lands quitclaim legislation such as Senate Joint Resolution 13 there would follow in short order extensive claims to submerged lands of the marginal sea by many other coastal States based on their own "historical" claims. Senate Joint Resolution 13 does not define "historical boundaries." In fact, although that phrase was used extensively during the hearings, it does not appear in Senate Joint Resolution 13. The resolution is so drawn as to leave the entire question in controversy, and to open the way for additional encroachment on assets belonging to the United States.

A brief listing of some of the provisions in colonial charters, State statutes, State constitutions, etc., on which these additional "historical" claims might be made is contained in the appendix (appendix D-4). We can only suggest that in the event of the recognition of the Texas claim by the Congress, the courts and the Congress will be plagued with claims to broad strips of the marginal sea by other coastal States, which will only lead to further confusion and litigation over these claims.

2. DELINEATION OF PUBLIC LANDS BY TEXAS CONSTITUTION CONVENTION, 1845

REPORT OF THE COMMITTEE ON THE LAND SYSTEM OF TEXAS

(Debates of the Texas Convention, pp. 748-50, Houston: 1846)

Committee Room, Aug, 1845.

To the Hon. THOS. J. RUSK,

President of the Convention:

The committee, to whom was referred the resolution directing an enquiry into the land system of Texas, the amount of appropriated and unappropriated domain various kinds of titles and claims located and unlocated, amount of forfeited lands, and lands owned by foreigners, and amount of patented lands, and in what counties, &c., have considered of heir duties and report.

Much of the information contemplated by the resolution, the committee was unable to obtain for the want of time and on account of some defect in the land office laws, which will appear by the accompanying letter from the Commissioner of the General Land Office. From this and other communications of the Commissioner—from an inspection of the records in the General Land Office, and other

reliable sources of information, the committee is enabled to estimate the superficial extent of Texas at 397, 319 sq. mls.

The total amount of this which has been appropriated, the committee estimates as follows; to wit:

Amount issued by various Boards of Land Commissioners, and recommended as genuine by Commissioners appointed to detect fraudulent land certificates,	30, 019	"
Amount issued, and reported as spurious,	30, 018	"
Amount issued by War Department, as bounty and donation claims.....	9, 844	"
Amount issued by government and sold in land scrip.....	578	"
Total amount issued by authorities of Mexico, which appear upon the records of the General Land Office, 30,500 square miles; of this amount, as far as the records show, there appears to be valid claims to the amount of.....	19, 500	"
Amount estimated to be invalid.....	1, 500	"
Amount issued by crown of Spain, and by the authorities of Mexico, located, or designed to be located within the old boundaries of Texas, of which there is no record or evidence in the General Land Office.....	7, 000	"
Amount claimed by the several empresarios, under the colonization laws of Coahuila and Texas.....	1, 388	"
Amount included within the limits of the several grants to contractors under the colonization laws of Texas.....	46, 000	"
Amount granted to Counties and Universities for Education.....	1, 457	"

The committee feel authorized to take into the estimate the appropriated lands in New Mexico, or Santa Fé, and other Mexican States on the Rio Grande. Upon an inspection of maps and a fair estimate of the population, the committee believes that 66,050 square miles a low estimate of lands on the east side of the Rio Grande. This country is claimed by Mexico and by the joint resolutions—the adjustment of all questions of boundary is left to the United States. Still this country does rightfully belong to, and is properly included within the limits of Texas, and the committee has full confidence that the United States will secure this country to Texas; yet it reasonably believes that the United States, in doing this, will secure the inhabitants of the country in the just possession of their lands.....

Add the Cherokee claim, which is about.....	66, 000	"
These several amounts swell the appropriated domain to...	2, 000	"
Which deduct from total, leaves to Texas, in public and unappropriated domain.....	236, 803	"
	160, 516	"

These estimates, it is believed, approximate very nearly to truth. There is left to Texas an unappropriated country not sufficiently large to subsist the various tribes of Indians now inhabiting this country.

Texas will, doubtless, despoil the Indian of this country, whenever it shall be needed for the occupancy of civilized man.

But upon a survey of the progress of settlement in the southern and western states of the American Union, this country cannot be reached in the next quarter of a century. Should the regular overflow of population press upon this frontier at that period, and should the Indian title be extinguished, another quarter of a century must elapse before it can be filled up. Taking an average of the last period, the public domain of Texas cannot be sold at an earlier date than 1882. If it can be sold at that time for \$1.25 per acre, the price of public lands in the United States, the public domain of Texas will be worth in the year 1882, \$128, 462,400.

If the accounts of traders and travellers are entitled to credit, one-half of this country is suitable for the occupancy of the agriculturalist. Deducting then one-half for sterile wastes and mountain ranges, the present worth of this fund, at 6 per cent., will not meet the public debt of Texas.

It would seem to the committee, to be the imperious duty of the Convention to reclaim from the unjust and unprincipled speculator, those large districts and tracts of country.

L. D. EVANS, Chairman.

3. ANALYSIS OF TREATY OF GUADALUPE HIDALGO

Memorandum prepared by the International Boundary and Water Commission United States and Mexico, United States Section, February 24, 1953, on "Extension to the High Seas of the Land Boundary Between the United States and Mexico under the Treaty of Guadalupe Hidalgo"

INTERNATIONAL BOUNDARY AND WATER COMMISSION
UNITED STATES AND MEXICO,
UNITED STATES SECTION,
El Paso, Tex., February 24, 1953.

MEMORANDUM

Subject: Extension to the high seas of the land boundary between the United States and Mexico under the Treaty of Guadalupe Hidalgo.

A search of existing records discloses the following pertinent information regarding the method used to determine the extension of the land termini of the boundary between the United States and Mexico to the high seas, under the Treaty of Guadalupe Hidalgo:

1. By letter of August 6, 1851, Lt. Col. J. D. Graham, principal astronomer and head of the scientific corps on the part of the United States, submitted a plan of operations for the demarcation of the boundary under the Treaty of Guadalupe Hidalgo to United States Commissioner J. R. Bartlett. Following is an extract from this letter:

"Sir: With a view to expedite the survey and demarcation of the boundary between the United States and Mexico, and to bring the whole work to as early a termination as shall be consistent with a proper regard to accuracy, I beg leave to submit to you for the consideration of the Joint Commission of the two Governments, the following plan of operations to be entered into immediately; viz:

"That the line between the mouth of the Rio Grande and the mouth of the river Gila shall be divided into two Divisions; to be called the Eastern and Western Divisions; the Eastern Division to extend from the highest point of boundary on the Rio Grande to the mouth of that river and thence three leagues from land, opposite to said mouth into the Gulf of Mexico, in accordance with the 5th Article of the Treaty of Guadalupe Hidalgo.

"The Western Division to extend from the aforesaid highest point of boundary on the Rio Grande, across the country until the line intersects the first branch of the river Gila, as provided in the Treaty, and thence down the said branch and river to its mouth.

"That each Division shall be subdivided into two portions, to be called Subdivision 1st and Subdivision 2d, as follows, viz.:

FOR THE EASTERN DIVISION

"Subdivision 1st. To consist of that portion included between the aforesaid highest point on the Rio Grande, thence down that river, to the mouth of the river Pecos or Puerco.

"Subdivision 2d. To extend from the mouth of the said river Pecos or Puerco down the Rio Grande to its mouth and thence three leagues from land, opposite the said mouth, into the Gulf of Mexico, as before mentioned, and in accordance with the Treaty. The distance of three leagues to be accurately sounded to a width necessary to show upon the map the best channel for the entrance of the vessels of the two Republics into the river."

2. A letter dated November 19, 1851 from Lt. Col. J. D. Graham to Don Jose Salazar Ylarregui, Principal Assistant Surveyor on the Part of Mexico, confirms a conversation between the writers on the matter of the demarcation of the boundary in the following terms:

"In pursuance of our conference of Monday last I beg leave to submit for your consideration the following plan I propose for our conjoint Survey of the Rio Grande, the determination of this subject having been committed to us by the Joint Commission of the two Governments:

* * * * *

"4. Soundings shall be carried out from the mouth (or mouths, should there be more than one) of the Rio Grande to a distance of three leagues into the Gulf of Mexico, in order to ascertain the deepest and best channel for the entrance of vessels."

3. A "Plan for the Conjoint Survey of the Rio Grande or Rio Bravo del Norte formed and agreed to by Lt. Col. J. D. Graham, Principal Astronomer and Head of the Scientific Corps on the Part of the United States Boundary Commission and Don Jose Salazar Ylarregui, Principal Astronomer and Surveyor on the Part of the Mexican Boundary Commission" was signed by both representatives at Frontera, near El Paso del Norte, on November 24, 1851. The extension of the boundary to the high seas in the Gulf of Mexico is mentioned in the following extract:

"4. Should the Rio Grande, or Bravo del Norte, be found to flow into the Gulf of Mexico by more than one channel, all shall be sounded, so that the boundary line may be laid down along the middle of the deepest one. Soundings shall then be carried out from the mouth of this deepest channel to a distance of three leagues into the Gulf of Mexico, in order to show the best entrance for Vessels into the river. Either party desiring it may extend these soundings to the said distance of three leagues out from the entrance of all the said channels, the result to be considered as for the benefit of the Navigation of both countries and to be rendered for that object in duplicate to the Commissioners of the two Governments."

4. "HISTORIC" CLAIMS OF OTHER STATES

Partial listing of "historic" State claims to expanses of the seas taken from colonial charters, constitutions, and statutes

Colony or State	Date	Wording
Virginia.....	1584 1609	"... the seas thereunto adjoining." (Charter) (1 Thorpe 53) "... all ... royalties ... both within the said tract of land upon the main and also within the Island and Seas adjoining" (charter) (7 Thorpe 3804)
Plymouth Co.....	1611 1620	"300 leagues of any part thereunto granted" (Charter) (2 Poore 1900) "... Throughout the Maine Land, from Sea to Sea, with all the Seas, Rivers Islands, Creeks, Inlets, Ports, and Havens ... and also the said Islands and Seas adjoining." (Charter) (1 Poore 922-926)
Mass. Bay Co.....	1620	(contained similar provision to above) (3 Thorpe 1847-51)
New Hampshire.....	1635	"The seas and islands lying within 100 miles of any part of said coasts" (Grant) (1 Poore 1271)
Carolinas.....	1665	"the royalty of the sea upon the coast" (Charter) (2 Poore 1383)
Massachusetts.....	1691	"all islands and islets within ten leagues." (Charter) (3 Thorpe 1870)
Georgia.....	1732	same as above, except all islands within 20 leagues and all rights such "as any of our royal progenitors have hereunto granted" (Charter) (2 Thorpe 705)
Virginia.....	1776	Boundaries to be the same as those "fixed by the Charter of King James I" (Constitution) (7 Thorpe 3818)
South Carolina.....	1787	"on the east the State is bounded by the Atlantic ocean ... including all Islands" (Statute) (2 Code of S. C. (1940 ed.), Sec. 2038)
Georgia.....	1798	"... all islands within 20 leagues of the coast." (Constitution) (2 Thorpe 794)
Louisiana Territory.....	1803	"with all its rights and appurtenances, as fully and in the same manner as they have been acquired by the French Republic" (Treaty of Paris) note: this apparently included the old Spanish Seaward claims. (8 U. S. Stat. 200)
Louisiana.....	1811	"Including all islands within three leagues of the coast" (Statute) (2 U. S. Stat. 641)
	1812	Seaward boundaries were set as equivalent of nine miles from the coast. (Statute) (2 U. S. Stat. 701; 3 U. S. Stat. 348)
Mississippi.....	1817	"all islands within six leagues of the shore" (Miss. Rev. Code (1857), c. II, sect. 2)
Alabama.....	1819	"south to the Gulf of Mexico, thence eastwardly including all islands within six leagues of the shore" (Statute) (3 U. S. Stat.)
Texas.....	1836	"running west along the Gulf of Mexico 3 leagues from land" (Act of Legislature of Republic) (1 Gemmel's Laws of Texas 1066)
Florida.....	1838	"The jurisdiction of the State of Florida shall extend over the Territories East and West Florida, which, by the Treaty of Amity, and settlement, and limits, between the United States and His Catholic Majesty, on the 22nd day of February, A. D. 1819, were ceded to the United States." (Const.) (2 Thorpe 678)
Texas.....	1848	"The boundary line between the two Republics shall commence in the Gulf of Mexico, three leagues from land, opposite the mouth of the Rio Grande" (Treaty of Guadalupe Hidalgo) (1 Thorpe 377)
California.....	1849	"the Pacific Ocean, and extending therein three English miles" (Const.) (1 Thorpe 449)
Oregon.....	1857	"Beginning one marine league at sea due west from the point where the forty-second parallel of north latitude intersects the same; thence northerly" (Const.) (5 Thorpe 299)

NOTE.—It is not the purpose of this listing to give a definitive treatment of all references to seaward boundaries which can be found in State constitutions, statutes, colonial charters, treaties, etc., but merely to show the difficulty which will arise if such terminology as "historic boundaries" or "boundaries at the time the State was admitted to the Union," is used in the submerged-lands legislation.

APPENDIX E. THE NEEDS OF EDUCATION

1. FEDERAL LAND GRANTS FOR SCHOOLS AND COLLEGES

Values of Federal land grants for elementary and secondary schools

[Data for the 1949-50 school year]

Code	Continental United States	Endowment funds	Acres unsold	Income from permanent school funds
	Total	\$828, 123, 681	30, 964, 118	\$29, 462, 546
01	Alabama.....	4, 163, 600		236, 400
02	Arizona.....	3, 000, 000	6, 700, 000	450, 000
03	Arkansas.....	4, 260, 954		115, 419
04	California.....	16, 845, 000		3, 101, 538
05	Colorado.....	15, 290, 390	2, 838, 184	900, 000
06	Connecticut.....	2, 144, 332		86, 500
07	Delaware.....	2, 000, 000		75, 000
08	Florida.....	6, 505, 754		297, 409
09	Georgia.....			
10	Idaho.....	19, 372, 810		1, 044, 481
11	Illinois.....	948, 955		57, 000
12	Indiana.....	21, 461, 161		760, 186
13	Iowa.....	4, 854, 124		129, 178
14	Kansas.....	12, 009, 861		221, 711
15	Kentucky.....	2, 315, 675		138, 938
16	Louisiana.....	3, 015, 056		38, 118
17	Maine.....	614, 472		75, 883
18	Maryland.....			
19	Massachusetts.....	5, 000, 000		153, 000
20	Michigan.....	7, 216, 104		500, 000
21	Minnesota.....	154, 000, 000		3, 500, 000
22	Mississippi.....	1, 036, 515		62, 000
23	Missouri.....	3, 372, 000		190, 763
24	Montana.....	25, 000, 000		1, 900, 000
25	Nebraska.....	12, 000, 000	1, 700, 000	1, 190, 956
26	Nevada.....	3, 685, 581		100, 000
27	New Hampshire.....	59, 723, 000		1, 500
28	New Jersey.....	14, 790, 896		468, 000
29	New Mexico.....	29, 060, 000	7, 000, 000	3, 412, 847
30	New York.....	9, 551, 390		310, 000
31	North Carolina.....	2, 397, 845		36, 772
32	North Dakota.....	31, 832, 675	1, 014, 825	1, 075, 000
33	Ohio.....	4, 600, 000		270, 000
34	Oklahoma.....	53, 191, 270	303, 109	1, 331, 575
35	Oregon.....	10, 667, 375	700, 000	225, 606
36	Pennsylvania.....	2, 966, 699		75, 000
37	Rhode Island.....	414, 732		12, 500
38	South Carolina.....			
39	South Dakota.....	28, 000, 000	2, 275, 000	968, 631
40	Tennessee.....	2, 512, 500		150, 750
41	Texas.....	150, 311, 245	1, 042, 000	3, 345, 850
42	Utah.....	6, 060, 000	2, 500, 000	500, 000
43	Vermont.....	1, 120, 218		37, 000
44	Virginia.....	18, 112, 532		315, 000
45	Washington.....	48, 964, 385	1, 800, 000	1, 400, 000
46	West Virginia.....	1, 000, 000		40, 000
47	Wisconsin.....	13, 254, 965		274, 495
48	Wyoming.....	24, 500, 000	3, 091, 000	1, 180, 000

Federal grants of land for educational purposes, by State and purpose

Alabama:	Acres granted
Seminary of learning.....	46, 080. 00
Common schools, sec. 16 (or indemnity lands).....	911, 627. 00
Agricultural college scrip.....	240, 000. 00
University.....	46, 080. 00
Tuskegee Normal and Industrial Institute.....	25, 000. 00
Industrial School for Girls.....	25, 000. 00
Vocational and other educational purposes.....	1, 625. 19
Total	1, 295, 412. 19

Federal grants of land for educational purposes, by State and purpose—Continued

		<i>Acres granted</i>
Alaska Territory:		
Common schools, secs. 16 and 36, reserved (estimated).....	21,009,209.00	00
Agricultural college and school of mines, certain secs. 33, reserved (estimated).....	336,000.00	00
Agricultural college and school of mines.....	2,249.95	00
Agricultural college and school of mines.....	100,000.00	00
Total	21,447,458.95	00
Arizona:		
University.....	46,080.00	00
University.....	200,000.00	00
Deaf, dumb, and blind asylum.....	100,000.00	00
Normal schools.....	200,000.00	00
Agricultural and mechanical colleges.....	150,000.00	00
School of mines.....	150,000.00	00
Military institutes.....	100,000.00	00
Common schools, secs. 2, 32, 16, and 36 (or indemnity lands).....	8,093,156.00	00
University.....	160.00	00
University.....	2,876.71	00
Total	9,042,272.71	00
Arkansas:		
Seminary or university.....	46,080.00	00
Common schools, sec. 16 (or indemnity lands).....	933,778.00	00
Agricultural college scrip.....	150,000.00	00
Total	1,129,858.00	00
California:		
University.....	46,080.00	00
Common schools, secs. 16 and 36 (or indemnity lands).....	5,534,293.00	00
Agricultural and mechanical colleges.....	150,000.00	00
Total	5,730,373.00	00
Colorado:		
Agricultural college.....	90,000.00	00
University.....	46,080.00	00
Common schools, secs. 16 and 36 (or indemnity lands).....	3,686,618.00	00
State agricultural college.....	160.00	00
Do.....	1,600.00	00
School of mines.....	200.00	00
Biological station.....	160.00	00
Total	3,823,818.00	00
Connecticut: Agricultural college scrip		
	180,000.00	00
Total	180,000.00	00
Delaware: Agricultural college scrip		
	90,000.00	00
Total	90,000.00	00
Florida:		
Seminaries of learning.....	92,160.00	00
Common schools, sec. 16 (or indemnity lands).....	975,307.00	00
Agricultural college scrip.....	90,000.00	00
Total	1,157,467.00	00
Georgia: Agricultural college scrip		
	270,000.00	00
Total	270,000.00	00

Federal grants of land for educational purposes, by State and purpose—Continued

		<i>Acres granted</i>
Idaho:		
University.....		46,080.00
University, Moscow.....		50,000.00
Agricultural college.....		90,000.00
Normal schools.....		100,000.00
Scientific schools.....		100,000.00
Common schools, secs. 16 and 36 (or indemnity lands).....		2,963,698.00
University.....		606.40
Total.....		3,350,384.40
Illinois:		
Seminary of learning.....		56,080.00
Common schools, sec. 16 (or indemnity lands).....		996,320.00
Agricultural college scrip.....		480,000.00
Total.....		1,522,400.00
Indiana:		
Seminary of learning.....		46,080.00
Common schools, sec. 16 (or indemnity lands).....		668,578.00
Total.....		714,658.00
Iowa:		
University.....		46,080.00
Common schools, sec. 16 (or indemnity lands).....		1,000,678.62
Agricultural college.....		240,000.00
Total.....		1,286,758.62
Kansas:		
University.....		46,080.00
Common schools, secs. 16 and 36 (or indemnity lands).....		2,907,520.00
Agricultural college.....		90,000.00
Experiment station, agricultural college, normal school, and public park.....		7,507.53
Agricultural college.....		7,682.00
Total.....		3,058,789.53
Kentucky:		
Agricultural college scrip.....		330,000.00
Deaf and dumb asylum.....		22,508.65
Total.....		352,508.65
Louisiana:		
Common schools, sec. 16 (or indemnity lands).....		807,271.00
Seminary of learning.....		46,080.00
Agricultural college scrip.....		210,000.00
University and agricultural college.....		211.56
Total.....		1,063,562.56
Maine: Agricultural college scrip.....		
		210,000.00
Total.....		210,000.00
Maryland: Agricultural college scrip.....		
		210,000.00
Total.....		210,000.00
Massachusetts: Agricultural college scrip.....		
		360,000.00
Total.....		360,000.00

Federal grants of land for educational purposes, by State and purpose—Continued

		<i>Acres granted</i>
Michigan:		
University.....		46, 808. 00
Common schools, sec. 16 (or indemnity lands).....		1, 021, 867. 00
Agricultural college.....		240, 000. 00
Total.....		1, 307, 947. 00
Minnesota:		
University.....		92, 160. 00
Common schools, secs. 16 and 36 (or indemnity lands).....		2, 874, 951. 00
Agricultural college.....		120, 000. 00
Total.....		3, 087, 111. 00
Mississippi:		
Jefferson College.....		23, 040. 00
Common schools, sec. 16 (or indemnity lands).....		824, 213. 00
Seminary of learning.....		23, 040. 00
Agricultural college scrip.....		210, 000. 00
University.....		23, 040. 00
Agricultural and mechanical college.....		46, 080. 00
Industrial institute and college for girls.....		23, 040. 00
Total.....		1, 597, 893. 00
Missouri:		
Seminary of learning.....		46, 080. 00
Common schools, sec. 16 (or indemnity lands).....		1, 221, 813. 00
Agricultural college.....		330, 000. 00
Total.....		1, 597, 893. 00
Montana:		
University.....		46, 080. 00
Agricultural college.....		140, 000. 00
Deaf and dumb asylum.....		50, 000. 00
Reform school.....		50, 000. 00
School of mines.....		100, 000. 00
Normal schools.....		100, 000. 00
Common schools, secs. 16 and 36 (or indemnity lands).....		5, 198, 258. 00
Observatory for university.....		480. 00
Biological station for university.....		160. 84
Fort Assinniboine, for educational institutions.....		2, 000. 00
Total.....		5, 686, 978. 84
Nebraska:		
Agricultural college.....		90, 000. 00
Common schools, secs. 16 and 36 (or indemnity lands).....		2, 730, 951. 00
University.....		46, 080. 00
Total.....		2, 867, 031. 00
Nevada:		
Mining and mechanic arts.....		90, 000. 00
University.....		46, 080. 00
Common schools, certain secs. 16 and 36, and lieu lands.....		2, 061, 967. 00
Total.....		2, 198, 047. 00
New Hampshire: Agricultural college scrip.....		
		150, 000. 00
Total.....		150, 000. 00
New Jersey: Agricultural college scrip.....		
		210, 000. 00
Total.....		210, 000. 00

Federal grants of land for educational purposes, by State and purpose—Continued

	<i>Acres granted</i>
New Mexico:	
University.....	111, 080. 00
Saline land (university).....	1, 622. 86
Agricultural college.....	100, 000. 00
Deaf and dumb asylum.....	50, 000. 00
Reform school.....	50, 000. 00
Normal schools.....	100, 000. 00
School of Mines.....	50, 000. 00
Blind asylum.....	50, 000. 00
Military institute.....	50, 000. 00
Common schools, secs. 16 and 36 (or indemnity lands).....	4, 355, 662. 00
University.....	200, 000. 00
Deaf, dumb, and blind asylum.....	100, 000. 00
Normal schools.....	200, 000. 00
Agricultural and mechanical colleges.....	150, 000. 00
School of Mines.....	150, 000. 00
Military institutes.....	100, 000. 00
Common schools, secs. 2 and 32 (or indemnity lands).....	4, 355, 662. 00
Agricultural college.....	54, 868. 41
Eastern New Mexico Normal School.....	76, 667. 00
Regents of University of New Mexico for archeological purposes.....	218. 13
Regents of Agricultural College of New Mexico.....	2, 089. 70
Total.....	10, 307, 870. 10
New York: Agricultural college scrip.....	990, 000. 00
Total.....	990, 000. 00
North Carolina: Agricultural college scrip.....	270, 000. 00
Total.....	270, 000. 00
North Dakota:	
University.....	86, 080. 00
Agricultural college.....	130, 000. 00
Deaf and dumb asylum.....	40, 000. 00
Reform school.....	40, 000. 00
School of mines.....	40, 000. 00
Normal school.....	80, 000. 00
Common schools, secs. 16 and 36 (or indemnity lands).....	2, 495, 396. 00
Total.....	2, 911, 476. 00
Ohio:	
Seminaries of learning.....	69, 120. 00
Common schools, sec. 16 (or indemnity lands).....	724, 266. 00
Agricultural college scrip.....	630, 000. 00
Total.....	1, 423, 386. 00
Oklahoma:	
Normal schools.....	300, 000. 00
Oklahoma University.....	250, 000. 00
University preparatory school.....	150, 000. 00
Agricultural and mechanical college.....	250, 000. 00
Colored agricultural and normal university.....	100, 000. 00
Common schools, secs. 16 and 36 (or indemnity lands).....	1, 375, 000. 00
Institutional purposes, certain secs. 13 and 33.....	669, 000. 00
Total.....	3, 094, 000. 00

Federal grants of land for educational purposes, by State and purpose—Continued

		<i>Acres granted</i>
Oregon:		
University.....		46, 080. 00
Common schools, secs. 16 and 36 (or indemnity lands).....	3, 399, 360. 00	
Agricultural college.....		90, 000. 00
University.....		85. 42
Total.....		3, 535, 525. 42
Pennsylvania: Agricultural college scrip.....		
		780, 000. 00
Total.....		780, 000. 00
Rhode Island: Agricultural college scrip.....		
		120, 000. 00
Total.....		120, 000. 00
South Carolina: Agricultural college scrip.....		
		180, 000. 00
Total.....		180, 000. 00
South Dakota:		
University.....		46, 080. 00
Do.....		40, 000. 00
Agricultural college.....		160, 000. 00
Deaf and dumb asylum.....		40, 000. 00
Reform school.....		40, 000. 00
School of mines.....		40, 000. 00
Normal schools.....		80, 000. 00
Common schools, secs. 16 and 36 (or indemnity lands).....	2, 733, 084. 00	
Total.....		3, 179, 164. 00
Tennessee: Agricultural college scrip.....		
		300, 000. 00
Total.....		300, 000. 00
Texas: Agricultural college scrip.....		
		180, 000. 00
Total.....		180, 000. 00
Utah:		
University.....		46, 080. 00
Do.....		110, 000. 00
Agricultural college.....		200, 000. 00
Deaf and dumb asylum.....		100, 000. 00
Reform school.....		100, 000. 00
School of mines.....		100, 000. 00
Normal schools.....		100, 000. 00
Blind asylum.....		100, 000. 00
Common schools, secs. 2, 16, 32, 36 (or indemnity lands).....	5, 844, 196. 00	
University purposes.....		60. 54
Total.....		6, 700, 336. 54
Vermont: Agricultural college scrip.....		
		150, 000. 00
Total.....		150, 000. 00
Virginia: Agricultural college scrip.....		
		300, 000. 00
Total.....		300, 000. 00

Federal grants of land for educational purposes, by State and purpose—Continued

	<i>Acres granted</i>
Washington:	
University.....	46,080.00
Agricultural college.....	90,000.00
Normal schools.....	100,000.00
Scientific schools.....	100,000.00
Common schools, secs. 16 and 36 (or indemnity lands).....	2,376,391.00
Total.....	2,712,471.00
West Virginia: Agricultural college scrip.....	150,000.00
Total.....	150,000.00
Wisconsin:	
University.....	92,160.00
Common schools, sec. 16 (or indemnity lands).....	982,329.00
Agricultural college.....	240,000.00
Total.....	1,314,489.00
Wyoming:	
University.....	46,080.00
Common schools, secs. 16 and 36 (or indemnity lands).....	3,470,009.00
Agricultural college.....	90,000.00
Deaf and dumb asylum.....	30,000.00
Total.....	3,636,089.00

NOTE.—These data have been taken from School Lands; Land Grants to States and Territories for Educational and Other Purposes, U. S. Department of the Interior, General Land Office, Information Bulletin, 1939 series, No. 1. Washington, D. C. U. S. Government Printing Office, 1939.

TABLE 19.—Land-grant funds of 1862 (first Morrill Act) and other Federal land-grant funds, for year ended June 30, 1950

Location of institution	Land-grant funds of 1862										Other Federal land grants								
	Condition of fund			Receipts			Total, columns 5-7	Disbursements			Balance on hand, July 1, 1950	Unsold land (value)	Amount of fund not including unsold land	Income, 1949-50					
	Unsold land		Balance on hand, July 1, 1949	Income on invested funds	Income from rentals, patents, deferred taxes, etc.			Salaries	Facilities	Total									
	Num-ber of acres	Value																	
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)	(14)	(15)					
Grand total.....	\$46,969,795	597,929	\$16,127,576	\$298,526	\$1,283,503	\$158,964	\$1,810,985	\$1,125,445	\$373,291	\$1,498,736	\$311,959	\$7,539,780	\$21,900,911	\$985,719					
Total white.....	40,578,574	597,929	16,127,576	367,890	1,256,728	158,964	1,783,291	1,098,041	373,291	1,471,332	311,959	7,539,780	21,900,911	985,719					
Total Negro.....	388,221			627	26,777		27,404	27,404		27,404									
Alabama.....	253,500				20,280		20,280	20,280											
Arizona.....	65,965	150,000	300,000	4,415	1,597	5,751	11,763		800			496,080	594,646	49,262					
Arkansas.....	132,667				6,633		6,633	6,633					116,733	3,995					
California.....	891,417	480	4,800	140,019	24,019		164,038		140,019										
Colorado.....	602,528			17,723	4,528		42,124	39,583											
Connecticut.....	135,000			63,391	4,082		67,473												
Delaware.....	84,381				1,400		1,400	1,400					68,337	1,233					
Florida.....	182,329				7,750		7,750	7,750											
Georgia.....	242,302			2,575	6,155		8,730	5,250	1,800										
Idaho.....	1,200,851	48,240	482,401		39,262		39,262	32,416	35,746				904,576	129,017					
Illinois.....	649,013			32,451			32,451	32,451											
Indiana.....	340,000			6,649			14,001	13,968											
Iowa.....	546,943			16,537			16,537	16,537											
Kansas.....	557,121	4,000	30,000	14,736	13,211	200	28,147	10,000					4,066,326	129,017					
Kentucky.....																			
Maine.....	165,000				8,645		8,645	8,645											
Maryland.....	23,925			627	1,256		1,883	1,883											
Massachusetts.....	182,313				9,116		9,116	9,116					136,000	5,440					
Michigan.....	118,300				5,915		5,915	5,915											
Minnesota.....	132,400				3,310		3,310	3,310											
Mississippi.....																			
Missouri.....																			
Montana.....																			
Nebraska.....																			
Nevada.....																			
New Hampshire.....																			
New Jersey.....																			
New Mexico.....																			
New York.....																			
North Carolina.....																			
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2. THE CRISIS IN EDUCATION BY DR. BENJAMIN FINE, NEW YORK TIMES' EDUCATION EDITOR:

Statement of Dr. Benjamin Fine, Education Editor, the New York Times, Before United States Senate Committee on Interior and Insular Affairs, on Behalf of Oil for Education Amendment to Senate Joint Resolution 20, February 7, 1952

Senator HILL, members of the committee, I am happy to testify here this morning before you. Although I am not an expert on oil, I have delved into the problems of our schools and colleges. And it is to that subject that I intend to speak. American education is in grave danger. I have but recently completed a nationwide survey to find out what has happened or is happening to our school system. The schools are in serious trouble.

Crisis is an overworked term. When it is used often enough it loses its impact. We just shrug our shoulders and accept it. The impact is no longer there. Yet we must be realistic. We cannot, ostrichlike, bury our heads in the sand and do nothing.

Is there a crisis in education? I could spend hours giving a firsthand picture—conditions that I saw with my own eyes as I have visited schools in the North, South, East, or West—that would convince you, if further evidence is needed, that our schools and colleges need help.

Said President Truman: "Our public-school system faces the greatest crisis in its history."

Said the American Federation of Teachers: "The Nation's schools face their most severe crisis in our country's history."

Said the American Federation of Labor: "A financial crisis exists in the schools and colleges of this country."

Said United States Commissioner of Education Dr. Earl J. McGrath: "The tidal wave of children bearing down on our schools bids fair to overwhelm us."

I could go on and on, citing testimonials. But I won't. I don't think they are really necessary. I think that anyone who has visited our public schools and our colleges in many sections of the country have seen at firsthand—as I have—that the educational system is sick.

Education today is at the crossroads. This is truly the midcentury. We can take our choice: ahead lies the democratic road, with freedom, liberty, happiness as the goal. Or we can starve our schools and colleges and take the road to despair, uneasiness, and eventual ruin.

I believe strongly in our system of education. Our liberal-arts colleges, our free public schools, our privately supported institutions, all have their part to play in making democracy grow and flourish. We are engaged in a desperate struggle today, a struggle for our very existence. We are building a mighty arsenal—untold billions will go into making our country powerful enough to ward off any blows that may be thrust upon it.

But I am convinced that arms alone, no matter how powerful, are not enough. For today we are engaged in a different kind of battle, a battle that requires more than tanks and guns, ships and airplanes or even atomic bombs. We are engaged in a battle over men's minds. We are fighting an ideological war. In a war of ideas, it is necessary to reach the minds of men. If we are to win the war and then win the peace, we will need to convince men and women everywhere that the democratic way of life is the best way; that our vaunted freedoms are more than hollow shells. And we must convince peoples in all parts of the world that in a democracy they will find the freedom to live, to grow, to rear their children, to walk upright and unafraid.

And by contrast we must show what it means to be enslaved by the Communist system. We must explain in terms so that all can understand the degradation, the fear, the slavery, and the tragedy that follows the Communist way of life. Although strong armies are important, a strong belief in democracy is just as vital. An informed people will be friendly toward our world. Education can play a significant role in defeating the spread of communism. That our schools and colleges are important most people readily concede. But that they do not get the support they need is not as easily admitted. Here is the stark, unhappy truth: Our educational systems, from lower grades through our nationally known universities, are not getting adequate financial support. It is criminal to neglect our schools and colleges now, when we need them most. Of course, our defense budget has soared, and we must pare down nonessentials. But our schools and colleges are essential; they are more essential today than ever before in our long, proud history.

Of one thing can we be certain: As long as we maintain a strong system of education we will remain a free nation. An educated citizenry will be ready to

live and die, if necessary, to keep communism from our shores. An educated, informed citizenry will want to build a stronger, better land, where equal opportunities for all will be the accepted way of life.

Where are we now? Let us all ask that question of ourselves, ask it soberly, in humility. We must be careful not to give up all we hold precious. There are mighty problems ahead. We will need, as never before, educated men and women to help solve those problems. At midcentury, we can honestly ask: What's wrong with American education?

I have just completed a nationwide survey to find out. Each of the 48 State commissioners of education were reached in this study.

In each of the 48 States, the New York Times key correspondents made an on-the-spot survey of school and college conditions. As the wealth of material began to flow across my desk, I suddenly realized that once again the Nation's public schools are in serious plight. The war-mobilization program has taken its toll. Danger signals are flying everywhere. Too often they are not heeded. Many of the advances made in the last few years have been wiped away. An unwholesome deterioration has set in.

The schools are caught in a dangerous pincer movement. These major factors are involved: Increased enrollments, inflationary costs, lack of building materials, inadequate funds, and an acute teacher shortage. Can we afford more money for our schools in time of national emergency? My answer is a resounding "Yes". Money spent for education today will make us a stronger Nation, a more unified Nation, a Nation that will really become a bulwark of the democratic way of life, of the American traditions of freedom and liberty for all.

Most of us believe in education—in the abstract, not the concrete. Most of us will support education if it costs the other fellow something, not us. Education is such an intangible word. You can't see it, really. You can't weigh it, or put it in a bread basket and cart it home with you. We believe in education, yes; that is in the American tradition. Like Coolidge's sin, everybody is for more education. Reminds me of the story told of the hermit who lived in the Palisades. One Sunday afternoon he found a pocketbook after the picnickers had left. He threw out all kinds of paper, green and yellow, till he came to the bottom of the bag. He came up with a few coins and in great glee cried out: "Coppers, coppers." He could bite into the coins. We are spending millions of dollars for tangible things—for roads, for subways, for tanks and planes—they are tangible; but we are starving our children's minds; you can't see inside a child's mind unless you have imagination. Now I am not even suggesting that we should spend less for our defense materials—the educational world is pretty much behind that program. But I am saying that it is not a question of tanks versus textbooks. I insist that we can have both. I insist that we need both if we are to remain strong and free.

Nothing is more important than our schools and colleges today. We cannot exist in the twentieth century with nineteenth century classrooms. We have taught men to fly in the air like birds, to swim under water like fish, but we cannot walk upright and unafraid on the earth like men. That is why we need stronger schools—to teach men to walk upright and unafraid.

It is tragic to find in a survey I made not long ago of 5,000 students of high-school age, that 95 percent said they would choose teaching as a last resort; they place medicine, dentistry, law, engineering, business, any or all professions, above teaching. A survey conducted recently by the school of education at Indiana University showed similar results—just about 4 percent of the high-school graduates had any interest whatsoever in teaching.

Why? Why do our young people boycott teaching? It is because the community has not been able to give education the financial support that it needs to be a top-ranking profession. Education is still a byproduct in American life. It is a luxury, sometimes even a marginal luxury.

But I don't want to give a discourse on the importance of education. I would be carrying coals to Newcastle were I to do that. All of you believe in education, all of you understand its value. All of you, too, would agree with the father of the public schools who said more than a century ago: "Schoolhouses are the first line of our defense." But believing all that, I must now recount a few of the weak spots in our educational system. These, I repeat, are conditions that came out of my recent survey, and I refer to February 1952, not last year or the year before that. These conditions are with us now, today, and unless we are careful, for a decade to come.

1. STUDENT ENROLLMENTS

Increased birth rates are jamming our schools beyond capacity. We are gaining children at the rate of 1,000,000 a year. Indeed, Dr. McGrath estimated that next year alone there will be 1,700,000 more children in our schools than there were this year. From about 25,000,000 elementary and high school children in 1950, we will have close to 35,000,000 in 1960. Nor is the end yet in sight. This year, you may have read, the birth rate has increased again—it has not leveled off, as had been expected. The Korean conflict may have had something to do with it; whatever the cause, the Nation's parents are working diligently to keep our schools filled with little children.

What does that mean? It doesn't take a professional educator or an amateur prophet to read the signs. It means more teachers, more equipment, more buildings, more money. No one is more important than our children. Yet we read that in some States as high as 30 to 40 percent of our young men are rejected today because of physical or educational deficiencies. This is a national disgrace. In World War II, 750,000 men were rejected for educational reasons alone—more than the number of men who fought in the South Pacific area.

In the words of that eminent educator, Dr. Willard E. Givens, executive secretary of the National Education Association: "What our Nation does about the education of the young determines whether we are developing national stamina or committing slow suicide." Is this simply an alarmist's point of view? Not at all. It represents the considered judgment of educator and civic-minded statesmen everywhere.

2. TEACHER SHORTAGE

The Nation's public schools face a dangerous teacher shortage. We need at least 105,000 new elementary teachers each year, and we are training but 35,000. In 10 years, at the present rate, we will have a shortage of 700,000 teachers. And to make the situation worse, fewer students are entering the teachers' colleges—there has been a drop of 16 percent over last year.

The Times survey showed that every State, almost without exception, suffers from a teachers' shortage. Nothing quite as serious as this has hit the public schools in a generation. To make matters worse, the teachers are leaving the profession in greater numbers than any time since World War II. Then 350,000 of our best teachers left, never to return. Normally the schools can figure on a drop-out rate, in the teaching staff, of 6 percent. Now it is 12 percent—just double normal. For various reasons, about 100,000 teachers leave the profession each year. Of course, there is a normal rate of attrition of these teachers who retire, die, or become otherwise incapacitated. But over and above that, teachers are leaving to get higher paying jobs elsewhere. I would estimate that about 50,000 teachers are leaving annually because they are dissatisfied with the teaching profession. Add that number to those who refuse to go into teaching at all, and couple that with the increased enrollment, and you have a mighty serious problem.

Again I want to quote our educational commissioner: "The blunt fact is," warns Dr. McGrath, "unless we do something drastic, and immediately, to relieve the teacher shortage, a whole generation of American boys and girls will be short-changed in their right to obtain a fundamental education."

What will keep teachers in their classes? What will induce more of our brighter high-school or college graduates to select teaching as a profession? Better working conditions for one thing. And higher salaries for another—money is not the sole consideration, of course, but it can become mighty important if you have to support a family. The teachers make, on the average, about \$60 a week. That is all over the United States, and includes that \$100-a-week pay that some communities in New York pay. That means that many teachers get far less than \$60—as low as \$20 or \$25 a week. In some States teachers get from \$10 to \$15 a week. What can you get for that money? Your guess is as good as mine.

Except that I've seen the teachers that have been hired at these fantastically low salaries. Some have never gone beyond high schools. Others are embittered, lost souls who are still living in the horse and buggy days. It is tragic to watch some of the teachers at work. They are making mental, emotional, and intellectual cripples of their charges. They rule with an iron hand and an incompetent mind. I saw one teacher grab a little 6-year-old tot, who accidentally spilt a glass of milk during luncheon time, shake the very life out of her, while the other children sobbed in fear. Then the teacher turned to me with a smile and said proudly: "I never spank 'em. I only shake 'em." Or the teacher who told her

class of children during the civics period: "The men have ruined the Nation—but wait till the women get the right to vote." I could give you countless examples, but why go on? If you plant corn you will get a crop of corn. If you plant wheat, you will get wheat. And if you pay a teacher \$12.50 a week in the year of 1952 you will get children who are cheated of their democratic birthright.

3. BUILDINGS

The steel shortage has hit the schools a terrific wallop. There simply are not enough schools being built to take care of the growing enrollment, let alone replace obsolete, poorly equipped buildings. Almost unbelievable conditions exist in many communities. Even though more steel has been allocated to the schools this quarter than last, the crisis is growing. One out of every five schools in the country is obsolete, and the figures may be even more startlingly tragic by the end of the year. During the next 7 years, the Times study showed, the country will need to build 600,000 classrooms—but we won't get anywhere near that figure. What is the result? Children go to school in church basements, in cellars, in attics, in garages, in private homes, in firetraps, in abandoned inns. Why, I even saw children going to school in a morgue and undertaker's parlor. Imagine, 8 years from now, when they have their class reunion. They will attend the reception of Public School 8, the morgue. I saw a civics book with the 1889 imprint—those children don't know who won the Spanish-American War.

It is serious. To quote Gen. Dwight D. Eisenhower: "To neglect our school system would be a crime against the future. Such neglect could well be more disastrous to all our freedoms than the most formidable armed assault on our physical defenses. Where our schools are concerned, no menace can justify a halt to progress."

The story is told of Rip Van Winkle, Jr. Envious of his father's fame and his 20 years of sleep, young Rip set off for the woods. He fell asleep, but for 100 years—five times better than his old man. When he awoke, he staggered to the road; to his astonishment, he found it was hard dirt that hurt his bare feet. Soon a strange monster, without any horses, came roaring at him. He dashed into the ploughed field to escape the noisy animal, but again he was dumfounded. A smoke-belching monster roared at him, without wheels, going on tracks. Young Rip, dashing wildly to the top of the hill, threw himself under a tree, when a huge bird, roaring like thunder, flew overhead. Frantic with fear, Rip dashed down the hill and saw a little red schoolhouse in the distance. He rushed to it, opened the door, threw himself on the bench, peacefully—nothing changed.

4. FINANCIAL SUPPORT

It costs a lot of money to run the country's school system. This academic year we will spend about \$5,000,000,000 for the operating expenses, and another \$1,000,000,000 for buildings. This is an increase of about 10 percent over the previous year—but it is an illusory increase. Inflation has eaten away the increase.

Yet the record amount spent for schools this year, in terms of 1952 dollars the percentage of national income that goes for public elementary and secondary schools is considerably lower than it was in the depression years. In 1933-34 we spent 4.32 percent of the national income for public school education. But in 1949-50, the last year available, the Nation spent only 2.57 percent.

Education does not get as much of the national income as do some of the luxury items. In 1950 the people of this country spent for alcoholic beverages \$8,100,000,000; for tobacco products, \$4,409,000,000; and for cosmetics, \$2,291,000,000. In other words, about \$15,000,000,000 for these three luxuries and a third of that amount for the education of 25,000,000 boys and girls of school age.

Money is reflected in teachers' salaries. On an average of \$60 a week will not get the best minds to go into teaching in any serious way. We must provide more money for education—if we spent as much as we did during the depression years of the thirties, on a relative basis, we would have mighty fine schools today.

Now, here's the problem: Where is the money? The local communities are in trouble—they have taxed real estate just about as much as it can stand. If we go much higher locally we'll reach the law of diminishing returns. The States are in financial straits too. They are finding it difficult to make ends meet, and still provide schools with the funds necessary. And the Federal Government, you gentlemen know, is running at a pretty substantial deficit. It is going to be difficult to extract much Federal funds in these days.

MONEY IS AVAILABLE THROUGH OIL

Fortunately, we do have a solution. It is a once-in-a-million answer to a difficult problem. Why not use the royalties from the Nation's undersea oil resources for our schools and colleges? This is probably the answer to a maiden's prayer that you read about in fairy books. The money is available, and it will not add to our tax burdens. I believe that the oil royalties will give us the opportunities to build better schools, to pay our teachers more, to strengthen the school systems and college programs from one end of the country to the other. If this amendment is passed, children for generations to come will rise and call you blessed. It takes imagination and vision, it takes courage and inspiration, to take this bold pioneering step. As Senator Hill has said: Oil for the lamps of learning. The money is there, right before us. We must not permit it to evaporate; we must not dissipate it. Nothing is more important than good sound schools and colleges. We need not fear the Communist menace if we are a well informed, educated, literate people.

No matter how trying the times, no matter how desperate our manpower shortage, we must not drain our classrooms and campuses dry. We dare not adopt a shortsighted policy in regard to the young men and women in our colleges and universities, in our elementary and high schools.

Let us face the future firm in the conviction that the democratic way of life is worth preserving; that freedom is worth saving; that spiritual values are worth defending, and that the democratic traditions are worth dying for, if need be.

Our schools and colleges need our financial support, if they are to survive the present crisis. I am pleading with you not to let them down. Thirty million boys and girls, young men and women, are at stake. Let us give them the kind of education of which a democratic Nation can be proud. We have the opportunity in our grasp. We must not let it slip away and forever after be lost.

WHY OUR PUBLIC SCHOOLS ARE IN SERIOUS TROUBLE

(A series of six articles by Benjamin Fine, education editor of the New York Times, reprinted from the New York Times)

REARMING SAPS SCHOOL GAINS AS ROLLS AND COSTS STILL SOAR

Once again the Nation's public schools are in serious plight. Eighteen months of defense mobilization have taken their toll. Danger signals are flying everywhere, but often are not heeded. Many advances made in the first 5 years after World War II are being swept away.

The schools, like other aspects of civilian life, are beginning to feel the effects of the Korean conflict. As a result, they face a gloomy year. Many educators are worried lest the gloom continue for another decade.

Reports from State commissioners of education, correspondents of the New York Times in each of the 48 States, and interviews with leading educators all point to a downward trend.

The schools are caught in a pincers. Four major factors are involved: Increased enrollments, inflationary costs, lack of building materials, and an acute teacher shortage.

EDUCATORS BACK DEFENSE

Each is leaving its imprint on the schools, and on the children, too. It is not a question of tanks versus textbooks. Educators everywhere wholeheartedly support the Government's defense program. They applaud its efforts to make our democracy strong enough to withstand the challenge of Soviet communism.

They say their problem is not one of more ABC's or more airplanes. They insist our economy is strong enough to provide both. Moreover, they insist that it is just as true today as it was a century ago, when first proclaimed by Horace Mann, that schoolhouses are the first line of our defense.

In the last year it appears schools have made few advances and many backward steps. A number of communities report unexpected setbacks. Over the Nation 3,500,000 elementary and high-school children—one out of eight pupils in the public schools—are suffering an impaired education because of inadequate facilities. A year ago a Times study showed 3,000,000 children were being deprived of an adequate education. Thus there has been an increase of half a million in 12 months.

Incompetent teachers, poorly equipped classrooms, inadequate buildings, and poor supervision combine to cheat these hundreds of thousands of young people. The number of pupils on double sessions is growing steadily. An estimated 400,000 boys and girls are not getting a full school day—some are attending school even on triple-session schedules. They go half a day, or a third of a day. What this does to the morale of the children, the parents, the teachers, and the community is easy to imagine.

Educators emphasize that a child deprived of his schooling will be unable to regain the years lost—a child is 6 only once. One cannot postpone the growth of a pupil as one might postpone the building of a road or a garage.

This comment by Dr. Walter Maxwell, secretary of the Arizona Education Association, is typical: "At numerous schools I have seen children lined up in front of a schoolhouse door, marching in to take their places in the school as the first shift marched out—just like the changing of shifts in factories."

COSTS PROVIDE HEADACHES

Inflationary costs are a headache everywhere. School officials are haunted by rising prices. Everything they buy has gone up 50 or 100 or even 200 percent. Teachers are insisting they get their share, too. Cost-of-living bonuses have been handed out, but not fast enough, the teachers complain, to keep pace with rising food prices. As a result, morale in many communities is poor. Last spring the 500 teachers of Pawtucket, R. I., went on strike for several months, closing all of the city's schools. They won part of the increase they sought—but at a serious cost to the schooling of their pupils.

In other communities the struggle for higher salary schedules goes on in the board rooms rather than on the picket line. The New York City teachers recently ended a year-and-a-half boycott of extracurricular activities. Judging from the reaction of their spokesmen, they are far from happy at the compromise salary increases.

But the salary issue is only part of the educational picture. Competition has arisen from higher-paying Government jobs, war-related positions and the demand for skilled and semiskilled workers in various industries. More teachers are leaving the profession today than at any time since World War II, when 350,000 departed, never to return.

Frequently the community must employ substandard, unqualified teachers because trained personnel are lacking. Many school systems report they are scraping the bottom of the barrel.

A smoldering discontent is detected. Never before have the schools been under such attacks. Frequently the controversy is artificially contrived, dishonestly designed to wreck the free public school. But there is enough discontent to make thoughtful educators and civic-minded citizens take stock.

The schools are in need of greater financial help—and they are unable to get it. Many communities already allocate a substantial part of their tax funds for the schools. Oftentimes real estate is taxed almost to the danger point. But education costs more today than ever before—and the money frequently is not there to spend.

ENROLLMENT A RECORD

Enrollment is at its highest peak. The Times survey indicates that the 1951-52 school enrollment is 26,525,115—representing a growth of 826,194 in a year. Most of this growth has occurred in the elementary grades, and more particularly the first grade. The private and parochial schools will add another 3,000,000 children or more, thus bringing the total elementary and secondary enrollment close to 30,000,000.

Moreover, the school rolls are going to increase for at least 8 years, more likely 10.

Next year—1952-53—the schools will enroll 1,700,000 more children than were registered this year. This is a tremendous number to absorb, particularly since most of the classrooms already are overcrowded. The peak will not be reached before 1957-58, if by then, at which time it is estimated the enrollment in public elementary and secondary schools will exceed 32,000,000, an increase of 6,000,000 over that of today.

Educators are deeply disturbed by this condition. Typical is the view voiced by Dr. Earl J. McGrath, United States Commissioner of Education:

"The tidal wave of children bearing down on our schools bids fair to overwhelm us. We simply are not building enough new schoolhouses or training enough new

teachers to meet the situation. We can't go on from year to year on the present makeshift basis without seriously undermining our whole public school system.

"Unless the American people are prepared to take positive action to remedy these deficiencies, millions of children will continue to get a makeshift education."

Today many thousands of children are attending classes in school basements, apartment-house basements, empty stores, garages, churches, inadequate private homes, and even trailers. What is more, one out of five of the regular schools is either unsafe or obsolete.

BUILDING PROGRAM DELAYED

The defense program has played havoc with building plans. Even though the Nation spent a record \$1,200,000,000 for school construction in 1950-51, the communities were unable to keep pace with the number of children reaching school age. And in 1952, educators warn, steel and other critical materials will stymie the construction of many badly needed schoolhouses.

More than 1,000,000 school teachers are now employed, 46,000 more than last year. But with more than 1,000,000 children to be added each year for the next several years, the teaching rolls also will have to rise steadily. However, teacher-training institutions are not preparing enough men and women to do the job. All but four States report a teacher shortage even this year. They now could use 71,886 elementary and 15,121 high school teachers.

Despite the need for teachers, young people seem to shy at entering the profession. The teacher colleges report a decrease this year of 16 percent in their entering classes. This means, in effect, that 4 years from now, when the school rolls will have increased by more than 5,000,000, there will be fewer trained teachers.

Although the number of teachers holding substandard or emergency certificates has decreased by 5,053, there are still 66,354 of them in the school system. For example, 8,500 of the 24,600 teachers in Missouri are on emergency certificates, and South Dakota reports 1,796 of its 7,159 teachers do not hold regular licenses.

But the substandard certificates tell only part of the story. The National Education Association estimates that of the 600,000 elementary teachers in the public schools 300,000 do not hold college degrees—the minimum standard. Of this number, the NEA says, at least 100,000 are so inadequately prepared as to make their continued presence in the classroom dangerous to the mental and emotional growth of America's youth.

SLIGHT RISE IN SALARIES

The Times survey shows that teachers' salaries have risen slightly from an average of \$3,097 to \$3,290 annually. This \$193 increase, or \$3.71 a week, has been eaten up, the teachers declare, by increased living costs and higher taxes.

New York State, with an average annual teachers' salary of \$4,500, leads the country, followed by the District of Columbia with a \$4,300 average and California with \$3,967. Mississippi again is at the bottom of the list, paying its teachers an average of \$1,475 a year. Arkansas is next to Mississippi with \$1,700, and South Carolina is third from the bottom with \$2,130.

Six States pay some teachers less than \$20 a week—Mississippi, South Carolina, Kentucky, Iowa, Georgia, and Missouri. Ten others pay a minimum of \$20 to \$25 a week.

For the country as a whole, the public schools cost just a little more than \$5,000,-000,000, a slight increase over that in 1950-51. Two States—New York and California—spend more than \$500,000,000 each. Because of spiraling costs, the funds needed to operate the public schools have risen higher than ever before. Educators complain, however, that the money they get cannot buy as much as their funds of as recently as 2 years ago.

Once more the effects of the Korean conflict can be seen in the classrooms of every community in the United States.

With the Congress in session the NEA and other school organizations again will seek Federal aid for the public schools. One Member of Congress who has advocated a Federal-aid bill—Senator Lister Hill, of Alabama—asserted that the strength and security of the United States against aggression were bound inexorably to education. In a statement to the Times he observed:

"Education has given us the widespread, high level of intelligence and general competency by which we have built history's most perfect example of democratic government and preserved it against the winds of alien ideologies. We face a long period of international tensions and big armaments that may last perhaps

for 5, 10, or even 20 years. In terms of sheer numbers of people our potential enemies hold a heavy advantage and our intelligence sources tell us that Russia and her satellites are feverishly working to train large numbers of skilled workers, instructed by industrial experts taken out of East Germany since the last war.

"We must fix our educational sights accordingly and insure that every American boy and girl has the opportunity for maximum development of his or her capabilities. Only in this way can we meet the need for more scientists, more engineers, more chemists, more physicists, more technicians, more skilled workers of every kind, more nurses and doctors and leaders in other professions and business."

The status of public school education, in contrast to conditions a year ago, as shown by regions in the Times survey, follows:

NEW YORK AND MIDDLE ATLANTIC

A heavy influx of young children has burdened schools in this region, and with no signs of relief in sight. Both New York and Pennsylvania report the largest enrollment increases. The registers of all the States and the District of Columbia have increased about 200,000. In face of the need for additional schools, all States report difficulty in obtaining building materials. Even so, most States are pushing school-building programs. New York intends to spend \$150,000,000 this year, compared with \$100,000,000 last year.

Salaries in this area are among the best. No State except Delaware can get a sufficient number of elementary teachers. Pennsylvania cannot obtain enough qualified secondary, as well as elementary schoolteachers. The region employs more than 10,000 teachers who hold substandard certificates, an increase over last year.

NEW ENGLAND

New England offers a contrasting picture as regards teachers' salaries. Three States—Massachusetts, Connecticut, and Rhode Island—pay their teachers more than the national average, the other three do not. The salaries of Maine, New Hampshire, and Vermont are not much better than those in some of the Southern States.

Only Connecticut, Massachusetts, and Vermont record large enrollment increases. Almost all the States report conditions are better than a year ago, and the number of teachers on substandard certificates has decreased. All but Rhode Island need additional teachers, largely in the elementary grades—Massachusetts and Connecticut need 500 elementary teachers each.

SOUTH

Conditions in the South, although steadily improving since World War II, are still poor. Enrollment has been increasing in some States but tapering off in others. The problem is largely one of improving school services and raising teacher standards. Absenteeism and school drop-outs also are serious issues.

Many southern teachers are on emergency licenses, although in some States the number has decreased in the last year.

However, a large number of southern pupils receive an impaired education. In Arkansas, Alabama, and Kentucky, 50 percent of the pupils are affected by substandard teachers, inadequate buildings, and double sessions. The lowest salaries in the country are paid in the South. Some teachers in Mississippi receive \$500 a year, in South Carolina \$600, and in Kentucky \$640. All States in the region fall below the national teacher's salary average.

SOUTHWEST

Enrollment increased in all States, with Texas showing a gain of 29,000 in a year. All States report conditions are either better or same as last year. Texas, however, has not increased its teaching staff despite its enrollment gain.

Salaries in New Mexico and Arizona are above the national average. Arizona, with \$3,800, ranks fourth. Only Arizona reports it can obtain all the teachers, both elementary and secondary, it needs.

MIDWEST

School conditions are generally reported as improving in the 12 States in the region. Enrollment is on the upswing, due in large part to growth of defense industries, particularly in Michigan.

Some glaring contrasts are evident. Michigan pays its teachers an average annual salary of \$3,700, seventh highest in the Nation, and Illinois, with \$3,600, is near the top 10. But North Dakota with \$2,162, South Dakota with \$2,185, and Nebraska with \$2,200 are forty-sixth, forty-fifth, and forty-fourth, respectively, in the national standing. Although in many States the number of substandard teachers is negligible, approximately one-third of Missouri's, one-seventh of South Dakota's, and one-eighth of Michigan's teachers hold substandard certificates. Large numbers of pupils are receiving second-rate or impaired schooling.

ROCKY MOUNTAIN

The postwar birth rate is evident in the Rocky Mountain public schools. Colorado reports an enrollment increase of 5,000, Utah 7,000, Wyoming 3,000, and Nevada 3,000. Considering the total number of pupils in each State, the gains are significant.

With the exception of Utah, where about one-tenth of the teachers hold emergency certificates, the problem of substandard teachers has been largely solved. Utah is making improvements. The average salaries range from \$2,900 in Colorado to \$3,316 in Nevada. All report they can obtain secondary, but none can get elementary teachers.

NORTHWEST

Montana and Idaho have approximately the same number of teachers, 5,225 and 5,020, respectively, but Idaho has 16,000 more pupils. Idaho needs both elementary and secondary teachers while Montana needs only elementary. Both have many emergency teachers. There is a big difference in teachers' salaries. Montana has an average of \$3,415, Idaho, \$2,639.

FAR WEST

Teachers' salaries in the Far West are among the highest in the country. California, with a \$3,967 average, is second nationally and Washington, with \$3,690, is ninth; while Oregon, with \$3,650, is tenth.

California now has 63,800, the second largest staff in the country. The number of teachers on emergency certificate increased 7,600. Oregon has 1,800 of its 12,350 teachers on substandard licenses. All need elementary, but Washington also needs secondary teachers.

The Times study shows serious school problems in every section of the land. It also shows that not enough attention is paid to these problems. Soaring enrollments, fewer buildings, a shortage of teachers and a lack of money to keep pace with school needs have combined to bring another educational crisis.

While this crisis is not yet in the acute stage, our system of free public education may be endangered unless the schools receive more financial support.

SUMMARY OF CURRENT CONDITIONS IN NATION'S SCHOOLS

The present status of total teaching staff, emergency teachers, average annual salary and student enrollment for elementary and secondary schools, as reported throughout the Nation, follows:

SUBMERGED LANDS ACT

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	Number of teachers employed		Total student enrollment in public schools		Number of teachers with emergency certificates		Average annual salary	
	1951-52	1950-51	1951-52	1950-51	1951-52	1950-51	1951-52	1950-51
MIDDLE ATLANTIC								
New York.....	84,700	81,500	2,070,000	1,995,000	2,800	2,850	\$1,500	\$4,200
New Jersey.....	32,875	23,062	724,920	682,897	2,908	1,564	3,750	3,515
Pennsylvania.....	63,510	61,161	1,654,000	1,602,000	1,950	50	3,230	2,952
Delaware.....	2,050	1,931	47,405	45,448	38	377	3,710	3,654
District of Columbia.....	3,483	3,429	96,722	94,584	429	2,014	4,300	3,883
Maryland.....	13,436	12,495	369,958	348,497	2,035		3,841	3,586
NEW ENGLAND								
Maine.....	6,400	7,000	159,000	158,247	125	110	2,370	2,200
New Hampshire.....	3,136	3,100	73,500	72,600	215	490	2,890	2,750
Vermont.....	2,670	2,642	63,300	60,000	333	458	2,410	2,355
Massachusetts.....	25,750	25,396	625,000	618,889	300		3,555	3,463
Connecticut.....	12,458	11,501	307,900	283,563	631	680	3,700	3,500
Rhode Island.....	4,200	3,978	97,120	97,250	150	206	3,350	3,100
SOUTH								
Virginia.....	22,800	19,900	645,000	625,000	2,150	2,500	2,900	2,450
West Virginia.....	16,247	16,244	437,450	433,135	1,242	1,770	2,446	2,416
North Carolina.....	28,635	29,900	910,000	907,192	2,500	600	2,900	2,812
South Carolina.....	17,600	17,144	518,000	503,000	454	475	2,130	1,930
Tennessee.....	23,500	22,850	685,000	675,634	1,200	1,806	2,330	2,343
Georgia.....	25,225	24,000	787,580	782,952	670	1,000	2,400	2,020
Alabama.....	23,350	22,240	695,000	681,007	1,000	3,396	2,400	2,062
Mississippi.....	16,616	16,510	560,115	533,000	300	500	1,475	1,460
Arkansas.....	13,550	13,775	440,000	426,000	1,200	2,250	1,700	1,750
Louisiana.....	19,266	17,000	490,000	483,202	1,085	900	3,100	3,050
Kentucky.....	19,763	19,371	563,398	551,201	3,217	3,500	2,350	1,925
Florida.....	18,740	17,894	555,785	527,000	2,700	1,730	3,083	2,968
SOUTHWEST								
Oklahoma.....	19,600	18,867	519,750	496,311	350		3,167	2,800
Texas.....	46,042	46,042	1,478,150	1,449,114	1,100	1,188	2,960	2,839
New Mexico.....	6,100	5,273	155,500	150,000		50	3,540	3,006
Arizona.....	5,551	5,683	162,628	161,328			3,800	3,700

	Number of teachers employed		Total student enrollment in public schools		Number of teachers with emergency certificates		Average annual salary	
	1951-52	1950-51	1951-52	1950-51	1951-52	1950-51	1951-52	1950-51
MIDWEST								
Ohio.....	47,000	44,821	1,247,563	1,247,205	2,300	4,408	\$3,200	\$3,120
Indiana.....	26,000	23,900	1,114,000	1,080,000	2,700	1,000	3,450	3,250
Illinois.....	47,800	47,300	1,252,901	1,204,000	320	1,550	3,600	3,525
Michigan.....	21,000	20,348	1,024,000	1,000,000	5,000	4,500	3,700	3,500
Wisconsin.....	27,400	21,348	520,000	540,200	2,500	2,400	3,175	3,041
Minnesota.....	27,400	27,577	520,151	507,028	2,300	2,550	2,900	2,790
Iowa.....	27,488	27,038	491,000	477,720	483	483	2,907	2,689
Missouri.....	24,600	25,056	660,101	650,000	8,500	8,000	2,650	2,576
Nebraska.....	6,537	6,340	114,455	112,017	100	700	2,162	2,018
South Dakota.....	7,150	7,039	118,175	116,000	1,529	1,529	2,185	1,975
North Dakota.....	12,028	13,000	227,879	227,000	1,607	650	2,200	2,150
Kansas.....	17,802	17,503	345,000	325,930	21	175	2,200	2,558
ROCKY MOUNTAIN								
Wyoming.....	2,876	2,873	62,700	59,000	65	90	3,050	2,820
Colorado.....	10,500	10,477	237,000	232,055	650	850	2,900	2,892
Utah.....	5,555	5,053	163,467	156,407	570	739	3,170	3,038
Nevada.....	1,378	1,323	33,000	31,148	5	11	3,316	3,271
NORTHWEST								
Montana.....	5,225	5,086	112,456	107,456	625	735	3,415	3,000
Idaho.....	5,020	5,100	128,500	125,000	556	950	2,619	2,459
FAR WEST								
Washington.....	17,200	15,501	422,000	404,000	615	1,455	3,690	3,360
Oregon.....	12,590	11,491	282,000	272,215	1,800	1,800	3,650	3,368
California.....	181,800	61,123	1,855,000	1,746,291	7,600	6,655	3,967	3,907
Total United States.....	1,003,708	956,975	26,525,115	25,698,921	65,354	71,407	3,290	3,097

TEACHER SHORTAGE IS STILL A PROBLEM—105,000 MORE ARE NEEDED IN ELEMENTARY SCHOOLS YEARLY, BUT THEY GET ONLY 35,000—RURAL AREAS WORST HIT—CITIES, EXCEPT NEW YORK, ALSO ARE FEELING PINCH—SITUATION GRAVE, EDUCATORS WARN

This Nation's public schools face a dangerous teacher shortage. Although a minimum of 105,000 new elementary teachers are needed annually, only 35,000 are being trained. This means that within 10 years a shortage of 700,000 teachers will confront our schools.

With elementary school enrollment rising 1,000,000 a year, the teacher shortage will grow increasingly acute. And to make the situation still worse, fewer students are entering the teachers' colleges this year than last.

Reports from virtually every State in a Nation-wide survey by the New York Times shows that school systems cannot get enough elementary teachers. Periodic warnings have been sounded by educators, but nothing has happened—the shortage continues.

Although the shortage is found everywhere, it is most acute in the rural areas, in the South, Midwest and Far West. But even the larger cities (with the exception thus far of New York) have begun to feel the shortage. Nothing quite as serious as this has hit the public schools in a generation.

THE NEEDS ANALYZED

To provide enough teachers to take care of the tremendous increase in elementary enrollment over the next 10 years—and to cover ordinary losses through death, resignation and retirement—the Nation will need at least 105,000 new teachers annually. There are 600,000 teachers employed in the elementary schools. The drop-out rate is 12 percent, or 72,000. The 1,000,000 additional children will require another 35,000 teachers annually. However, the teachers' colleges are supplying about 35,000 teachers annually.

Factors that have contributed to the teacher shortage include the increased pupil enrollment, the fact that teachers are dropping out of the profession faster than they are being replaced, and the attractiveness of opportunities in other fields.

"The blunt fact is," warned Dr. Earl J. McGrath, United States Commissioner of Education, "unless we do something drastic—and immediately—to relieve the teacher shortage, a whole generation of American boys and girls will be short-changed in their right to obtain a fundamental education.

"The thinner you stretch your available teaching staff to cover the unprecedented and inexorably increasing enrollments in our public schools, the less chance there is for a teacher to do a competent job of teaching. It is the child who inevitably suffers. And when the child suffers, the Nation suffers."

A critical need also exists in many parts of the country for the replacement of undertrained teachers. Of approximately 600,000 elementary school teachers in service, about one-half, or 300,000, measure up to the minimum requirement of a college degree. Two hundred thousand have completed 2 years of college; the education profession recognizes the necessity for retraining them, and steps have been taken to help them improve their academic training. However, 100,000 are so woefully undertrained as to make necessary their replacement at the earliest possible moment.

CONDITIONS IN HIGH SCHOOLS

At the high school level only small increases in total enrollment are foreseen until 1957. At that time, according to Dr. Ray C. Maul, research associate of the National Commission on Teacher Education and Professional Standards, a phenomenal increase may be expected. By 1960 the total high school enrollment will be at least 8,500,000, or one-third more than at present.

The country needs 48,000 qualified candidates each year to replace high school teachers who leave the profession for all reasons. By 1960 the annual need will approach 70,000.

The problem at the high school level is not total numbers of available qualified candidates. There is, however, an unbalanced distribution of the candidates among the various high school teaching fields—there are more social studies teachers than can be employed, while there continues to be a shortage of candidates for teaching home economics, girls' physical education, and library service.

Only 17 States require a college degree for the elementary schoolteaching certificate, 4 require 3 years of college, 1 State requires 2½ years, 16 require 2

years, 2 States require 1½ years, 7 ask for 1 year, and 1 State—Nebraska—does not require any college preparation.

Dr. Willard E. Givens, executive secretary of the National Education Association and generally recognized spokesman for the public schools, stressed that no nation either in peace or war can afford to neglect its home base—it must be particularly concerned about health, competence, and morale of its people.

"The main source of the continued strength and capacity of the American people," Dr. Givens said, "is to be found in our children and youth. What our Nation does about the education of the young determines whether we are developing national stamina or committing slow suicide."

One of the leading reasons for the grave teacher shortage, Times correspondents and education commissioners agreed, is the low pay of teachers. On the average, the classroom teacher gets about \$60 a week—the range goes from \$10 to \$125. In Mississippi, for example, where there are 16,000 teachers, only 105 get \$4,000 or more a year, while 4,243 get less than \$1,000.

In Mississippi, a sheet metalworker averages \$378 a month; a truck driver or plumber, \$360; an electrical worker, \$207; policemen and firemen, \$230; while teachers average \$122 (yearly average \$1,475).

It may seem unfair to take the poorest-paying State for comparison, but the Times survey showed similar disparities in the other States. Figures prepared by the New Jersey Education Association show that between 1939 and 1950, the per capita income of New Jersey residences increased 126 percent; in the same period, average salaries of teachers increased 66 percent.

OTHER DETERRING FACTORS

Low salaries alone do not keep potential teachers from the profession. Teachers object to poor working conditions, to inadequate training facilities, to social pressures, and to a negative attitude on the part of the public. Teachers want to be a part of the community, but frequently find that they are not permitted to be active citizens. Some cities still refuse to employ married women teachers, and require women to resign if they get married while in service.

The shortage is about evenly divided over the Nation. The Pennsylvania State Education Association, which has a membership of 55,000, reports that in its State the shortage is mostly in rural sections. Pittsburgh needs teachers for kindergarten and primary classes; it also needs specialists in the fine arts and crafts, in home economics, and for the mentally retarded.

In New York State there is a shortage of 750 teachers in elementary schools outside this city. The State education department expects this shortage to increase to about 1,150 in the current school year and to 1,750 in the 1952-53 year. The shortage is most acute in suburban regions, which have been growing much faster than the cities in recent years. The main problems are in the Nassau, Westchester, Buffalo, Rochester, and Syracuse areas.

Shortages are growing in New England. Maine reports a shortage in the elementary division, particularly in the rural areas. Here, as elsewhere, the officials are up against the problem that teachers seek employment in the major cities or surrounding communities, which offer the best salaries and working conditions. By the time the cities and towns get their pick, the supply becomes exhausted before the rural areas are reached. It is estimated that 500 additional teachers could be used in Maine.

Connecticut, too, could use 500 additional teachers for the elementary schools. Massachusetts reports that its shortage is greatest from kindergarten through the first three grades. The State commissioner of education, Dr. John J. Desmond, pointed out that there is a trend in his State (it is found elsewhere) toward hiring liberal-arts-college graduates and retraining them for elementary teaching through special courses at teacher-training institutions.

REPORTS FROM THE SOUTH

Every Southern State reported a teacher shortage. Dr. Dowell J. Howard, Virginia superintendent of instruction, noted that 3,700, or 27 percent, of Virginia's 13,829 elementary teachers were not properly certificated for the grades they are teaching.

Fifteen percent of Virginia's teachers, or 2,119, hold local permits or emergency licenses. Most of the local-permit holders are high-school graduates only. North Carolina needs 3,000 qualified elementary teachers. Each summer the newspapers of the State carry want ads calling for teachers—mostly elementary teachers in rural areas. Georgia is in dire need of qualified teachers. The

standard teaching requirement in Georgia is based on a bachelor's degree. Last year 44 percent of the State's 24,618 teachers had training below that level.

Florida will need 1,000 new elementary teachers each year for the next 4 years, plus replacements for those who for various reasons leave the teaching profession each year. A similar story comes from Texas. The shortage exists in urban as well as rural areas.

On the west coast the teacher shortage is a major problem—caused in large part by the influx of people to Washington, Oregon, and California. Mrs. Pearl A. Wanamaker, superintendent of public instruction in Washington, estimated that elementary schools in her State could use 1,050 more teachers right now, and the secondary schools 550 more.

Poth Oregon and California reported growing teacher shortages. For the 1951-52 academic year, Oregon is issuing 1,800 emergency and substandard certificates. In California, the shortage exists at the elementary level and in specialized fields—teaching the mentally retarded, physically handicapped, and in fields such as women's physical education, agriculture, and industrial arts. Last year the State had 7,600 teachers on emergency substandard certificates.

The teacher-shortage problem cannot be solved overnight, educational spokesmen agreed. But they are concerned over the lack of interest in teaching among students and the public generally. A recent survey in Indiana showed that only 2 percent of a sampling of 4,000 high-school students were definitely committed to teaching as a profession, while another 2 percent thought they might enter the field. The vast majority of bright students in Indiana and elsewhere are staying away from teaching.

QUALIFIED TEACHER NEEDS BY STATES

Needs for qualified teachers in elementary and secondary schools have been estimated by the States as follows:

	Number of additional qualified teachers needed			Number of additional qualified teachers needed	
	Elementary school	Secondary school		Elementary school	Secondary school
MIDDLE ATLANTIC			MIDWEST		
New York.....	3,000	500	Ohio.....	200	0
New Jersey.....	2,800	100	Indiana.....	700	100
Pennsylvania.....	900	1,000	Illinois.....	1,000	200
Delaware.....	38	38	Michigan.....	5,000	200
District of Columbia.....	250	90	Wisconsin.....	3,000	0
Maryland.....	2,296	468	Minnesota.....	1,000	200
NEW ENGLAND			Iowa.....	444	49
Maine.....	200	75	Missouri.....	7,900	600
New Hampshire.....	250	35	North Dakota.....	500	0
Vermont.....	240	125	South Dakota.....	1,603	193
Massachusetts.....	500	0	Nebraska.....	700	100
Connecticut.....	500	228	Kansas.....	0	0
Rhode Island.....	0	0	ROCKY MOUNTAIN		
SOUTH			Wyoming.....	75	25
Virginia.....	1,500	300	Colorado.....	2,500	0
West Virginia.....	1,159	100	Utah.....	300	50
North Carolina.....	3,000	0	Nevada.....	50	25
South Carolina.....	320	4,940	NORTHWEST		
Tennessee.....	1,000	200	Montana.....	277	180
Georgia.....	1,000	300	Idaho.....	540	360
Alabama.....	6,891	1,111	FAR WEST		
Mississippi.....	1,900	100	Washington.....	1,050	550
Arkansas.....	1,000	500	Oregon.....	1,800	0
Louisiana.....	450	150	California.....	5,500	0
Kentucky.....	3,033	434	Total, United States....		
Florida.....	2,700	100	71,886		15,121
SOUTHWEST					
Oklahoma.....	200	75			
Texas.....	2,500	1,300			
New Mexico.....	80	20			
Arizona.....	0	0			

SHORTAGE OF STEEL HITS SCHOOLS HARD—ALLOTMENTS BY DPA FAR LESS THAN REQUESTED TO MEET BASIC REQUIREMENTS—MAKESHIFTS USED WIDELY—RAPIDLY RISING ROLLS PRODUCE CLASSES CALLED TOO BIG FOR EFFECTIVE TEACHING

The steel shortage has hit the Nation's schools a terrific wallop.

Faced with soaring enrollments, overcrowded conditions and increased need for classrooms, the school systems are unable to build. Lack of adequate schoolhouses is listed as the No. 1 educational headache from one end of the country to the other.

Almost unbelievable conditions exist in many communities. Enrollments rising nearly 1,000,000 a year over the country, coupled with inflationary costs and the inability to get priorities on critical materials, have joined to make an alarming condition. Despite the efforts of highly placed educational officials, the steel needed for school construction cannot be obtained in quantities necessary to keep pace with student growth.

One out of every five schools in the country is obsolete—and this figure does not include the hit-or-miss contraptions now used as schools on an emergency basis.

During the next 7 years, a study by the New York Times shows, the country will need to build 600,000 classrooms, at a cost of \$20,000,000,000 (a classroom at today's prices costs from \$30,000 to \$35,000). Of the classrooms, 222,000 will be used for the increased enrollment, 126,000 will be for normal replacements and 252,000 to reduce the existing backlog. This means, in effect, that the Nation must build at least 80,000 classrooms a year for the next 7 years.

This will not be possible by any stretch of the imagination. The year 1950-51 was the peak year for building schools in this country—40,000 classrooms were constructed at a cost of \$1,200,000,000. Even at this tremendous rate, the Nation was getting only about one-half the buildings needed to meet current needs and wipe out the backlog.

LITTLE CONSTRUCTION THIS YEAR

But what about this year? Or the immediate years ahead? Judging from present indications, the Nation's school-building program will bog down seriously. It is doubtful if even the current inadequate rate of construction will be continued through 1952. The increased demands of the defense program for critical metals—steel, copper, and aluminum—make it appear unlikely that the needs for new school construction can be met in any substantial degree.

Under allotments made to the United States Office of Education by the Defense Production Administration, materials can be granted for the most part to buildings actually under way.

Few new schools will be built during 1952, unless more steel is made available. A report from Dr. Earl J. McGrath, United States Commissioner of Education, tells the story graphically. For the quarter beginning July 1, 1951, his office submitted an estimate of 192,000 tons of steel for basic requirements for all educational purposes. The amount allotted was 100,000 tons.

The difficulty was increased further when the last quarter allotment was made known—it was smaller than that for the third. Basic requirements totaling 196,000 had been requested—and 94,000 tons were assigned. After a vigorous appeal from the education office, 10,000 tons were added.

Bad as last year's situation was, this year's tends to be worse. Education allotment for the first quarter of 1952 is 97,000 tons, less than 38 percent of estimated total requirement of 225,000 tons.

According to Dr. McGrath, the first quarter is particularly critical for school construction because postponements then will mean the loss not merely of those months but of an entire school year.

Dr. McGrath stressed that with an allotment of 97,000 tons for elementary and secondary school buildings, priority will be given for construction now under way. The green light will be given also to communities that have serious overcrowding in elementary and secondary schools. It will continue to be necessary to defer approval of new buildings where the purpose is primarily to eliminate obsolete structures.

This is what has happened thus far: of 2,259 schools under construction in 1951, critical materials were allotted to 1,528; materials were not available for 831. Of the 1,001 applications for projects on which to begin construction during the fourth quarter of 1951, critical materials were allotted to 86—materials were not available for 915. Out of 3,260 applications for last year, steel went to 1,624 projects, and 1,636 were turned down.

WARNS ON WEAKENING SCHOOLS

Commenting on this situation, Dr. McGrath declared:

"No person questions that, in this period of international crisis, the requirements of the military and defense production for steel and other critical material should be met. But it is also imperative that we permit no further weakening of our public-school system.

"We can't put our youngsters in educational cold storage for the duration. Education must be obtained on a year-by-year basis. If a child is given second- or third-class education, or no education during his formative years, the handicap will remain for his entire lifetime. The education of our young people must remain squarely in the forefront of any long-term program for the defense of democracy. Otherwise we run the risk of losing one of the goals for which we are fighting."

Spiraling costs also have affected the schools seriously. For example, \$1,000,000 spent for school-building construction last year purchased only about as much plant as \$568,000 could have bought at the end of World War II or as much as \$446,000 could have purchased in 1940.

CLASSES MEET IN HOMES

As a result, our understaffed, badly housed schools faced an unprecedented period of shortage. It is doubtful that even half of the 80,000 classrooms needed in 1952 will be constructed. School systems everywhere are sending out S O S signals. They are utilizing every conceivable space to keep schools open. It is not unusual to find children attending school in private homes, church basements, store lofts or in one case observed by this writer, a section of an undertaker's parlor. Supplies, equipment, and textbooks are lacking in many schools.

State after State reports impaired educational facilities because of inadequate buildings. In Illinois, for example, the lack of steel and other critical materials is preventing the construction of a number of school buildings. Approximately 13,000 students in Illinois are enrolled in schools where double sessions are necessary, while 7,500 are attending schools in buildings that are definitely inadequate.

Pennsylvania likewise reports a serious building shortage, even though \$35,000,000 was spent for new buildings during the 1950-51 school year and \$40,000,000 will be spent during 1951-52. In this State it is estimated that 8,500 pupils will suffer an impairment in school this year because of double sessions or part-time instruction.

Elsewhere the situation is just as serious. Officials report that the building situation in Arizona is steadily worsening. There, as elsewhere, the same story is repeated: during the war, buildings could not be erected because of the shortage of materials. After the war, many school systems thought prices were going to drop and so considered it poor business to build until construction costs went down.

EIGHTEEN JERSEY PROJECTS DELAYED

Some States, such as New Jersey, declare that a substantial proportion of the students are suffering some impairment in their schooling because they are enrolled in classes too large to permit effective teaching.

In New Jersey 18 projects, including new schools, additions, and annexes, representing a total cost of \$4,257,225, are being held up by lack of steel or other critical materials. Unless more steel is allocated during the first quarter of this year, 31 additional building projects, representing a total cost of \$12,000,000, will not get started.

Despite a large building program, Maryland has been unable to keep pace with its still growing school enrollment. Now standing at 369,958, the enrollment is the biggest in the State's history. In the next 3 years it is expected to go to 437,000. Classes are being held in shifts and in stores, churches, basements, and other rented space.

Because of lack of funds, Alabama is not planning a general school-building program. A very limited amount of Building Commission Funds is available for critical emergency school building needs. A survey is now being made to determine building needs with the hope that some provisions will be made to finance construction of school plants needed. As a result, Alabama officials report that 300,000 pupils are seriously in need of adequate housing. To do a half-way adequate job, the State would have to spend \$300,000,000 for school buildings.

WESTERN ROLLS ARE RISING

Reports from the Midwest and far West indicate that a huge building program will have to be started immediately if the enrollment increases are to be absorbed. A school building program is under way in Wisconsin. Most rural schools were constructed before 1900. It is estimated that \$234,000,000 must be spent in the next 20 years to provide adequate facilities. Lack of steel and other critical materials has crippled some of the current construction—about 25 projects are now being held up pending Federal priorities. During the current school year 24,000 pupils attended schools in substandard classrooms.

A school building survey, conducted by the State Superintendent of Public Instruction, is in progress in Colorado, where the effect of lack of steel is beginning to be felt. Fifty-six thousand pupils will suffer impairment in their schooling this year as a result of inadequate buildings or double sessions. In the neighboring State of Utah, 15 new plants are underway or committed, mostly in defense areas or such major cities as Salt Lake City and Ogden. In a half-dozen school systems, gymnasiums and auditoriums are doubling as classrooms, while three towns utilize church structures.

And on the West Coast, the Times' study found that Washington's pupil school classrooms were more crowded than ever before. Construction has lagged consistently behind enrollment, in spite of a \$40,000,000 bond issue approved by the voters.

NEEDS OF WASHINGTON

Attendance State-wide in Washington jumped 19,000 this year over last, but only 350 new classrooms were made available. School officials say they need 3,000 more classrooms. The total cost of the building program in the next 10 years, assuming funds are available, is estimated at \$300,000,000. Because of the classroom shortage 42,000 pupils now are receiving instruction in temporary portables or in makeshift classrooms in basements, corridors, or other space not intended originally for classroom use.

In Oregon school administrators warn that a lack of steel and other critical materials has definitely slowed down the building program. If more steel is not available soon a considerable number of students will be on double sessions next fall. Similarly, California, now in the midst of a building program costing \$200,000,000 a year, cannot keep pace with its growing enrollment. The lack of steel for school construction has become serious in parts of California. A study indicated that California needed one-half of the entire amount of steel allocated to the entire country for school-building purposes.

There does not seem to be an easy way out of the dilemma. The schools need more steel and other critical materials. So do hospitals and other welfare agencies, Government authorities retort. And, of course, the defense needs must come above all the others. Educators are hopeful that the Government will find some way to provide the schools with enough material and equipment to prevent the children from getting cheated.

INFLATION AFFECTS OUTLAY ON SCHOOLS—DECLINING DOLLAR VALUE PUSHES INCREASED OPERATION COSTS STILL HIGHER OVER NATION—RESISTANCE TO TAXATION—REVISION IS SOUGHT FOR ARCHAIC LEVYING—BONDS FOR BUILDING FACE LOCALITY OPPOSITION

It costs a lot of money to run the country's school system. More buildings, more teachers, more equipment, more supplies, and more children give school administrators a continuous headache as inflation diminishes what available funds can accomplish.

The New York Times survey, which obtained data from the 48 States and leaders in American education, shows that this year the public school will cost the taxpayers about \$5,000,000,000 for operating expenses and \$1,000,000,000 for buildings. This is an increase of nearly \$400,000,000 in operating expenses, but it is illusory because of the inroads of inflation.

For the Nation as a whole the estimated expenditure for a pupil in average daily attendance increased from \$206 in 1950-51 to \$216 in 1951-52. However, the National Education Association notes that the purchasing power of the \$216 in prewar dollars is about \$115.

New York, with an expenditure of \$325 for each pupil, leads the other States and is followed by New Jersey with \$312. Other States spending more than \$275

include Oregon, Wyoming, Montana, and Delaware. Mississippi is at the bottom of the list with \$88. States spending \$150 or less are Alabama, Arkansas, Georgia, Kentucky, North Carolina, South Carolina, Tennessee, Virginia, and West Virginia.

LESS OF INCOME FOR SCHOOLS

Despite the record amount spent for schools this year, in terms of 1952 dollars, the percentage of national income that goes for public elementary and secondary schools is considerably lower than it was in the depression years. In 1933-34, according to United States Office of Education figures, 4.32 percent of the national income was spent for public school education. But in 1949-50 (last school year available) the country spent only 2.57 percent.

Although the mounting expense of running the public-school system is criticized in some quarters, education does not get so much of the national income as do some of the luxury items. For example, in 1950 the people of this country spent \$8,100,000,000 for alcoholic beverages, \$4,409,000,000 for tobacco products and smoking supplies, and \$2,291,000,000 on cosmetics and beauty parlor services.

During the comparable period (1950-51) they spent \$4,836,213,084 for the upkeep of the public schools. In other words, about \$15,000,000,000 went for these luxuries and a third of that amount for the education of 25,000,000 boys and girls of school age.

Informed educators observe that the \$6,000,000,000 expended for the operation of schools and construction of buildings during 1951-52 will buy about half that amount in goods and services, measured in terms of the 1939 dollar. In many communities the schools take the lion's share of tax moneys, but even then the costs mount more rapidly than the funds allocated.

NEW MONEY SOURCES SOUGHT

Various suggestions have been made for financial assistance to the schools. More State aid is sought in many communities. Bond issues and increased tax millage keep many citizens aware of the needs of their schools.

The controversial issue of Federal aid to the public schools is still one of the must items on the agenda of many school organizations. The National Education Association intends to continue its fight to get a bill enacted in the present session of Congress. But the prospect for the measure does not appear too bright.

School financing is complicated by inflation. The teachers are constantly seeking higher salaries to compensate for cost-of-living increases. The cost of all materials and equipment used by the schools has gone up sharply, sometimes double or more 1940 prices. Here is the way Dr. James L. McCaskill, director of the NEA Division of Legislation and Federal Relations, puts it:

In 1950-51 the average salary for public school instructional staff members was \$3,080; the average employed person was earning about \$3,200, or 4 percent more. However, in 1939 the average teacher's salary of \$1,420 was 12 percent higher than that of employed people in general. If teachers' salaries were in the same relative position to those of all other employed persons today as they were in 1939, they would average \$3,580, or \$500 above their 1950-51 level.

If the education dollar continues to shrink, warns Dr. McCaskill, this Nation will be unable to obtain the teaching force and build the schools required to give adequate education to the growing number of school children.

CONDITIONS FACED BY STATES

States everywhere, according to reports from the New York Times correspondents, are finding the growing school costs burdensome, yet somehow they must continue to meet them.

Vermont is a typical State in this connection. The operating expenditure for public schools is about \$13,000,000 and is increasing about 10 percent annually. Resistance to bond issues for school buildings is becoming apparent; some communities bring up such proposals three or four times before they are accepted.

Local school taxes in Vermont have increased by a third in recent years and, since they are largely levied on property, the increase is becoming burdensome. State aid for education has increased, but does not absorb the major financial pressure. State or Federal aid for school buildings is generally felt necessary if the needs for school housing are to be met.

Three years ago the New Jersey public-school budget was in the neighborhood of \$150,000,000. Now it is close to \$200,000,000. Of the \$531,000,000 collected in taxes in New Jersey in 1950 to maintain governmental services more than a

third was used to pay for the education of children. About 85 percent of this amount was realized by locally imposed property taxes, the remainder by State aid distributed among localities.

Some States find that an archaic tax structure is at the bottom of their educational troubles. For the most part, schools draw their funds from property taxes rather than general taxes. Several educators have proposed that the tax structure be overhauled and modernized in light of current needs.

RISING BUDGETS IN MIDWEST

Serious problems arise when the operating budget for schools mounts too rapidly. For example, the total operating expenditure for public schools in Wisconsin in 1951-52 was \$117,000,000, in 1950-51 it was \$108,350,000, and the year before it was \$91,000,000. School taxes are separate items and they have increased greatly. An archaic property tax carries 75 percent of the school costs in the State.

In the last session of the legislature the Wisconsin Farm Bureau, a member of the joint committee on education in Wisconsin, introduced a selective 2-percent sales tax bill, the proceeds of which were to be used for school purposes to relieve the property taxpayer. It was badly defeated. There is some resistance to bond issues because of high construction costs and shortage of materials. The disposition is to "make do" until this situation straightens out.

Minnesota reports that its school expenditures have more than doubled since 1941. In that year the total for maintenance was about \$46,000,000; this year it is estimated at \$125,000,000. Educational needs account for more than half of all legislative appropriations.

In Kansas \$85,000,000 is available for the public schools this year, an increase of \$12,000,000 over the previous year. Most communities have approved bond issues for new school buildings by substantial majorities.

FACTORS IN VIRGINIA INCREASE

School expenditures have risen rapidly throughout the South, although this section as a whole does not support its public schools as liberally as some other areas.

In Virginia the total operating outlay for 1951-52 is estimated at \$85,000,000 whereas 5 years ago it was \$52,000,000. For the biennium starting July 1 the State board of education is asking for \$91,303,675 from the State's general fund for school operations—an increase of 33 percent over 1950-52.

The reasons cited by Virginia for this projected increase—and these reasons hold true elsewhere—are expected enrollment increase of 112,000 in 2 years, need to obtain 500 more teachers, and necessity for paying better salaries to attract and hold good teachers.

West Virginia, with a total operating budget for schools of \$70,000,000, finds that resistance to bond issues is increasing, particularly in rural areas. For several years, all schools have levied the maximum allowed for counties; 39 of the 55 counties have approved excess levies permitted by the constitution.

School budget difficulties are aggravated by an archaic tax structure, especially unequal assessed valuations. According to the State tax commissioner, real estate is assessed at only 32 percent of the appraised valuation.

Kentucky is having difficulty because of its increased school budget. There is definite resistance in communities to bond issues for buildings. Only 4 of 10 localities voting on a special school building fund tax in the November election were successful. School budget problems are aggravated by a generally low assessment of real property and an assessed valuation maximum tax rate of \$1.50 on \$100.

The situation is appreciably better on the West Coast than in the South. California, with a total operating budget of nearly \$500,000,000, has had success with almost all the bond issue elections. School taxes have gone up generally in recent years, both in total amounts collected and in rates. On the whole the citizens of Oregon have been generous in the financial support of their schools. School taxes have increased 400 percent since 1940-41.

The State of Washington, with a current operating budget of about \$100,000,000 is preparing for a huge enrollment increase within the next 10 years. A \$40,000,000 bond issue for school buildings was approved by the voters in 1950. Generally communities with pressing school problems are forced to resort to special levies because of a constitutional provision limiting taxes to 40 mills on

each dollar of assessed valuation, the valuation to be 50 percent of the property's true and fair value. School officials feel this limit is outmoded and should be revised.

Rising operating expenditures do not necessarily mean more money for the schools in terms of purchasing power, the Times study shows. Frequently the additional funds are barely enough to keep pace with the increased costs for school operation and maintenance. Inflationary costs have played havoc with the normal operation of the schools.

COST OF OPERATING NATION'S SCHOOLS

The current operating expenditures of the public schools compared with cost a year ago are estimated by States as follows:

	Total operating expenditure			Total operating expenditure	
	1951-52	1950-51		1951-52	1950-51
MIDDLE ATLANTIC			MIDWEST		
New York.....	\$590,000,000	\$563,000,000	Ohio.....	\$270,000,000	\$244,628,651
New Jersey.....	196,600,000	170,000,000	Indiana.....	150,500,000	141,457,000
Pennsylvania.....	314,842,579	297,506,508	Illinois.....	288,000,000	273,000,000
Delaware.....	11,046,455	10,908,200	Michigan.....	250,000,000	240,000,000
District of Columbia.....	22,135,400	21,211,447	Wisconsin.....	117,000,000	108,350,000
Maryland.....	89,068,221	74,322,145	Minnesota.....	125,000,000	115,000,000
NEW ENGLAND			Iowa.....	117,000,000	100,433,225
Maine.....	26,000,000	26,438,670	Missouri.....	103,000,000	98,837,035
New Hampshire.....	15,100,000	15,600,000	North Dakota.....	23,942,130	21,433,000
Vermont.....	13,000,000	11,481,314	South Dakota.....	30,900,000	27,871,880
Massachusetts.....	153,240,585	134,381,130	Nebraska.....	44,200,000	41,000,000
Connecticut.....	70,000,000	65,130,000	Kansas.....	85,000,000	73,000,000
Rhode Island.....	22,100,000	20,429,018	ROCKY MOUNTAIN		
SOUTH			Wyoming.....	16,400,000	14,270,806
Virginia.....	85,000,000	80,194,539	Colorado.....	55,000,000	48,357,800
West Virginia.....	69,679,519	58,344,398	Utah.....	28,300,000	27,578,644
North Carolina.....	122,000,000	121,000,000	Nevada.....	6,516,352	6,241,840
South Carolina.....	62,000,000	54,000,000	NORTHWEST		
Tennessee.....	80,450,000	76,451,451	Montana.....	25,500,000	23,651,144
Georgia.....	77,757,830	76,807,674	Idaho.....	23,700,000	20,642,955
Alabama.....	76,000,000	73,000,000	FAR WEST		
Mississippi.....	40,000,000	39,074,159	Washington.....	97,466,000	93,000,000
Arkansas.....	40,000,000	40,000,000	Oregon.....	73,104,839	65,661,230
Louisiana.....	91,000,000	89,095,580	California.....	475,000,000	410,268,167
Kentucky.....	62,755,655	63,000,000	Total.....		
Florida.....	82,000,000	78,842,461		5,213,525,854	4,836,213,084
SOUTHWEST					
Oklahoma.....	83,677,000	80,000,000			
Texas.....	254,000,000	255,828,000			
New Mexico.....	28,330,000	26,984,653			
Arizona.....	31,213,889	30,500,000			

GRASS-ROOTS MOVE ON TO AID SCHOOLS—5,000 CITIZENS' GROUPS HAVE BEEN ORGANIZED IN LAST FEW YEARS TO IMPROVE FACILITIES—EDUCATORS PRAISE ACTION—SURVEY, HOWEVER, NOTES THAT ATTACKS ON SYSTEM ARE GROWING ACROSS COUNTRY

As never before in the past, the citizens of this country are concerned about their public schools. Throughout the Nation local citizens' groups are being founded to work for better school facilities for all the children.

Within the last few years an estimated 5,000 citizens' organizations, consisting of every segment of the community, have been organized. This is a genuine grass-roots movement and has its origin in the desire of the community to provide better schools for its youth.

The New York Times survey, which reached each of the forty-eight State commissioners of education, and obtained on-the-spot reports from Times' corre-

spondents in each State, found that the participation and interest of the public in the schools is Nationwide. Because more money is being requested and because conditions have deteriorated in many instances as a result of increased enrollments, the public has been placed in a position where its aid is needed.

Educators cite the tremendous growth of citizen interest as one of the most encouraging developments of the last 5 years. They recognize that the closer association that is established with the local school authorities, the better education the children will receive. School officials stress that there is no more effective channels through which the Nation can strengthen and develop the entire structure of our public-school system than through citizens participation.

The citizens' movement receives support and impetus from the National Citizens Commission for the Public Schools, headed by Roy E. Larsen, president of Time, and consisting of national leaders of all walks of life. The commission, which will hold its annual conference in St. Louis next Friday and Saturday, works closely with 1,600 local citizens groups. These groups are in the forefront in their own communities in the campaign for improved schools.

THREE ELEMENTS ESSENTIAL.

New citizen groups are being formed almost every day. The commission has found that these three elements in the formation and program of such groups are essential: First, that the group be fully representative of the people in the community; second, that it interest itself in the overall school program rather than in any one particular aspect in its study; and third, that while maintaining its independent view, it cooperate fully with school authorities.

In thousands of communities these new citizens' committees have brought the responsible people of the community closer to the school administrators. It has brought them closer to the schools themselves and has helped solve some of the vexing problems of our day. Mr. Larsen puts it this way:

"The outstanding fact is that these well-organized, representative groups have provided an effective channel for the tremendous and ever-increasing interest of responsible citizens in the improvement of their local schools. It is a phenomenon on the American scene in which educators are taking great hope."

Various national groups, such as the American Legion, the National Congress for Parents and Teachers, the Junior Chamber of Commerce, and others have taken an active interest in the plight of the schools. At its session last month, the 160-man board of directors of the National Association of Manufacturers unanimously adopted a resolution that said that "business enterprises must find a way to support the whole educational program effectively, regularly, and now."

Frequently the citizens' groups, whether on a local or State level, have proved successful in drawing the attention of the public to the school needs. For example, Florida's minimum foundation program, which put a floor under the funds given to education, was the result of a citizens' committee work. The passage of the Florida program resulted after a 2-year study by the citizens' committee.

Illinois boasts a large number of citizens' school committees, most common of which is the advisory committee in agricultural education. Last year 216 schools had at least 1 of these groups. Others have been organized to raise funds and plan buildings. Many young persons have been brought in through school-district reorganization in the State, and they have been working on school boards advising on various problems. There are more than 500 citizens' committees, of which half have been successful in raising funds for bond issues. Considerable enthusiasm exists in the State for school projects, and there is no trouble getting people to serve on committees.

Virtually every community in Michigan has established a citizens' committee. These are fostered by the Area Studies Program adopted by the State legislature in 1949, which is designed to encourage the people of any area to make a thorough study of educational conditions and needs. Boards of education have been active in setting up these groups to educate the citizenry toward acceptance of school-improvement projects.

More than 50 citizens' groups are at work in northern California in the interest of better public schools. Many of these are associated with the National Citizens Commission for Public Schools, and are composed of members representing the professions, labor, industry, education, and other segments of the community.

In almost every area of Washington State citizens' committees have been established to work with school officials. Most are successful. Getting out the vote

on school levies has been one of the toughest obstacles for citizens' committees to overcome—the special elections seldom draw anywhere near the votes a general election does when national, State, or county officials are on the ballot.

ATTACKS ON SYSTEMS GROWING

Despite the vast citizen interest some segments of the community are opposed to the school programs and to public schools generally. A concerted attack is being made on the Nation's school system. Many communities are in the midst of controversies at this moment. In others, the critics of the public schools have sowed seeds of distrust and have occasionally disrupted the community and harmed the schools.

Reports from correspondents of the Times indicate that attacks on the public schools appear in few sections, but the number of these attacks is growing rapidly. For the most part, the criticism is dishonest and is used to cloak ulterior motives. Sometimes the objective is to reduce taxes. At other times it is to "return to the three R's." Still again, the criticism is leveled against a teacher or superintendent who may be considered too "progressive."

A counterattack against those who attack the schools dishonestly has been spearheaded by the National Commission for the Defense of Democracy Through Education, an affiliate of the National Education Association. In a recent pamphlet, *Danger, They're After Our Schools*, the commission warns that our American public schools are in serious danger. The pamphlet, which was sponsored by several national groups, declares that a Nation-wide campaign is under way that threatens to wipe out many of the advances the schools have made in the last 50 years.

"This is something quite apart from the honest effort of parents, teachers, and other civic-minded citizens to improve school programs and facilities," the educators warn. "In contrast to valid criticism and genuine concern for our children's well-being, that is a malicious campaign. It is so cleverly disguised that honest citizens are taken unawares."

M'GRATH SCORES REACTIONARIES

Dr. Earl J. McGrath, United States Commissioner of Education, declared that the opposition to modern education is being stimulated by the more reactionary elements who are against any development in education that broadens its scope to serve more genuinely democratic needs. He added:

"The appeal to ignorance and prejudice, in all its ugliest manifestations, is being used to discredit this form of modern education, together with the same sort of 'smear campaign' that is increasingly being directed, within our body politic, against almost any form of liberal opinion."

Four basic arguments are used by those who attack the public schools: The three R's—reading, writing, and arithmetic—are being neglected; the schools use Communist-influenced textbooks or employ subversive teachers; too much money is paid for the upkeep of the schools; and the schools have failed to teach properly. These arguments are exploited and frequently misused.

For the last 2 years, major attacks on the public-education system have been under way in both Pasadena and Los Angeles, Calif. The pattern has been the same in both cases. First a self-appointed committee involving relatively obscure citizens mounted an attack on the familiar grounds of Red influence, poor training of pupils, frills like vocational courses, allegedly heinous combination of history, geography, and economics, and an asserted return to the three R's. In Pasadena the original committee, led by an osteopath, resulted in the temporary defeat of a badly needed school-bond issue (subsequently approved) and the dismissal of Dr. Willard E. Goslin, superintendent, in November 1950.

In Los Angeles the campaign has developed more slowly. A "Citizen Schools Committee," headed by a film-studio construction worker, was formally incorporated in May 1950, several months after its first appearance. It has urged citizens to sign this creed:

"I think these subjects should be emphasized: reading (use of phonetics from the beginning); spelling (more drill), handwriting, grammar composition, arithmetic drill (in early grades), history, geography, and literature, with the last three taught as separate subjects. I believe in more classroom discipline, report cards with grades, standard tests for promotion."

If put into practice, the above suggestions would turn the educational clock back a good half century.

Mrs. Pearl A. Wanamaker, superintendent of public instruction in the State of Washington, believes there is a "deliberate campaign" to discredit public education in that State. She says it apparently is part of a movement gaining nationwide momentum. The bulk of the criticism—and the most effective—has been from tax-saver groups that constantly issue statistics showing how much the schools are costing the public.

The name of the National Council of American Education, and its director, Allan A. Zoll, is mentioned frequently by the Times correspondents. This is the organization that has been charged by the National Education Association as being dishonest in its criticism of the public schools, and disruptive in its purposes.

For example, in the campaign leading up to a school-board election last summer at Ferndale, a suburb of Detroit, the president of the school board was defeated. A Zoll pamphlet, *Progressive Education Increases Juvenile Delinquency*, was tucked under the windshield wipers of automobiles parked near a school during a pre-election meeting of the parent-teachers' association.

Evidence exists that some of the material used in attacks in other States are showing up in Florida. Edward Henderson, executive secretary of the Florida Educational Association, warned that "Florida is the next target." He said he has been informed that representatives of Mr. Zoll's group were coming this way. School officials are now making an effort throughout the State to alert the public of the impending attack.

ENGLEWOOD ATTACK BEATEN

Nearer home, attacks on the public schools have been made in Englewood, N. J., and Scarsdale, N. Y., and Port Washington, Long Island. The public schools of Englewood were under attack last winter and spring in a movement headed by Frederick G. Cartwright, Englewood resident, said to be a financial supporter of Mr. Zoll. A public meeting arranged by the Englewood Anti-Communist League, of which Mr. Cartwright is the founder and president, had Mr. Zoll as one of its speakers. After his speech, Mr. Zoll promised to return to Englewood to conduct an investigation of alleged "Red" infiltration in the schools.

Counterattack has been swift and vocal in Englewood. The Cartwright movement was stopped in its tracks by the formation of the Englewood Citizens Union, an organization of about 100 militant citizens. This group has representatives at all meetings of the Board of Education to stymie any statements or moves the Cartwright group might make. It furnished free legal aid to teachers who had been named by Mr. Cartwright.

Since 1949 the Scarsdale schools have faced vitriolic organized attacks. The attacks have been based almost exclusively on charges that books by known Communists and by leftwing followers have been placed on school library shelves and sometimes used as textbooks, that Communist sympathizers have been allowed to lecture in public schools, and that the board is derelict in not investigating the entire faculty to determine loyalties.

Scarsdale voters are on the side of the board by overwhelming numbers. No member of the opposition has been elected to the board. One of the opponents who ran was defeated for board membership by a vote of 1,150 to 40.

The organized school attacks may cause temporary harm, but the Times study shows that in the long run the general public comes to the defense of the public schools wholeheartedly. The free public schools are in the American tradition.

DOUBLING OF FUNDS FOR SCHOOLS URGED—EDUCATORS FAVOR TEN BILLION FOR NEW BUILDINGS, HIGHER PAY FOR BETTER TEACHERS—TO MAINTAIN STANDARDS—MORE CENTRALIZING AND SMALLER CLASSES ADVOCATED IN STRESS ON INDIVIDUAL PUPIL'S NEEDS

The war mobilization program has left its impact upon the Nation's public schools.

Decreased purchasing power, increased enrollments, and a shortage of qualified teachers have combined to check the gains made soon after World War II. Many pressing problems still exist and are getting worse.

Reports from the 48 States, in a survey made by the New York Times, indicate that the schools now have difficulty in getting and keeping competent teachers. A program to induce young persons to become teachers is essential if standards in

the teaching profession are to be improved. The public generally must accept responsibility for the financial support of a strong school system.

The Nation's State education commissioners list the 10 most pressing needs that confront the schools today. If put into practice, the 10-point program would cost considerable money. Some educators estimate that education should receive about twice what it spends now—a total of \$10,000,000,000 for operating expenses instead of the \$5,000,000,000 it now gets.

PRESSING NEEDS ARE LISTED

The pressing needs, as listed by leading educators, are:

1. More and better school facilities, new buildings to accommodate the rise in enrollment and to replace obsolete schools.
2. More and better teachers, to eliminate those now serving on emergency certificates who cannot meet accepted standards, to reduce the high pupil-teacher ratio, and to meet the needs of the rising enrollment.
3. More financial support for education, particularly from the local community, so that new buildings can be constructed, additional teachers acquired, salaries raised, and needed improvements made.
4. Better salaries for teachers and administrators, to attract personnel to the field and to meet the competition of the higher wages offered by private industry and business, as well as to offset the rising cost of living.
5. The reorganization and consolidation of school districts, particularly in the rural areas, so that children in all areas can receive an adequate education.
6. Smaller classes to reduce pupil-teacher ratio and to insure that the individual needs of all pupils are not overlooked.
7. Special services for "exceptional" children—the retarded and the gifted.
8. More supplies so that children can get the full benefit of the school curriculum.
9. More and better school transportation in rural areas to improve attendance and curb dropouts.
10. Better working conditions for all school employees.

There are other problems, of course, but these are the foremost ones. The educators recognize that, because of the priority taken by our defense needs, many of the "musts" listed by the profession will have to wait. But they are worried lest the wait be long, and that in the meantime the schools will suffer irreparable damage.

WELFARE AIDS SUGGESTED

The Department of Classroom Teachers of the National Education Association holds that the welfare of pupils and the welfare of teachers are so closely bound together as to be practically identical. Therefore, it believes that, to provide the best education for children, these conditions are essential:

1. The employment of adequately trained teachers, with much attention given to the work during the probationary period.
2. The adoption of a policy against discrimination in any manner on account of grade level or subject taught, marital status, age, sex, creed, or color.
3. A teacher-pupil ratio of 1 to 25 based upon persons actually engaged in teaching and total student enrollment.
4. A single salary schedule for classroom teachers providing a minimum salary of \$3,200 for teachers with a bachelor's degree and salaries of at least \$8,000 for teachers with 5 years of training and 15 years of experience.

In many instances, teacher morale is lower now than it was a year ago. This reacts upon the students who might plan to become teachers. Perhaps the lowered morale is partly to blame for the fact that the teachers colleges this year have enrolled 15 percent fewer freshmen than a year ago.

On the question of teacher morale, Dr. Earl J. McGrath, United States Commissioner of Education, holds that the primary cause of our inability to attract more young people to the teaching profession, and hold them, is our failure to pay them enough. He warns that until we can establish better salaries, it is doubtful that we shall be able to secure the full complement of qualified teachers we so sorely need.

However, there are factors other than the economic that cause teachers to abandon their profession. Many teachers are overworked to the point where they can no longer take it.

Others are unwilling to accept the limitations on their personal freedom imposed by certain communities. Still others find that conditions in many school systems act to curb their natural enthusiasm and zeal for doing a good job.

"There is no doubt that really thoroughgoing research into the teacher shortage is long overdue," observes Dr. McGrath. "Such a study should explore all phases of the matter—economic, social, and psychological—and attempt to uncover the root causes. We need to know all the reasons why people go, or do not go, into teaching and why they stay or leave it. We need to know what makes a good teacher and what makes a bad teacher. And we need to know what can be done to develop the morale of the profession so that those who enter it will have no cause to regret their choice."

On the whole, the States agree as to the most pressing needs in the education profession. They agree with Delaware that more funds for schools are imperative. The unified school legislative committee in Delaware, which comprises 20 lay and professional groups interested in education, stressed that a change in the tax setup was needed so that more funds can be provided.

Many educators say more State aid, or some form of Federal aid, is the answer. Practically all teachers, principals, and officials of the State board of education are convinced that more State aid is the key to the solution of all major educational problems in New Jersey.

AID FOR HANDICAPPED URGED

Without greater appropriations to construct new schools, employ more teachers, or pay higher salaries, no important improvement in education can be realized in New Jersey or elsewhere.

Educators in Massachusetts say the teacher shortage, need for more adequate salaries, need for new buildings to take care of enrollments where they have increased, and the replacement of antiquated buildings are the most pressing needs for the improvement of education in their State. Dr. John J. Desmond, Jr., Massachusetts State commissioner of education, called also for more equality of education, so that the handicapped would have an equal chance with the healthy to learn how to be self-supporting.

Out of seven representative superintendents in North Carolina polled on the question of their schools' most pressing needs, five listed "more funds" and the other two said "more superior teachers who set the standard for teaching in the school." According to Thomas D. Bailey, State superintendent of Florida, teachers and school buildings are the two most pressing educational needs. It will require \$45,000,000 to bring the Negro school buildings and facilities up to the standard of schools for white children. Based on the United States Supreme Court decision concerning education for Negro children, Florida can expect to be called upon to meet this expenditure in the near future. Other southern States are in a similar position.

The most pressing problems faced on education in Texas are mounting enrollments, the building shortages, scarcity of qualified teachers, and insufficient school funds on the local level. Factors pointing up these problems are reactivation of military installations, speeding up production of defense industries, and a climbing birth rate. Texas is still trying to catch up with its building program after the building dearth during the war period. The problem is becoming acute with scarcity of materials and high costs.

Several midwestern States list reorganization and consolidation of the small districts as their most pressing school need. Nebraska is typical in this respect. There are nearly 7,000 school districts in the State. Enrollments, it is found, do not justify the large number. For the sake of economy and a better educational program, redistricting is found to be necessary. The State has never recognized the necessity of having properly qualified teachers for the elementary grades. High school graduates with no college training are still permitted to teach under certain conditions.

Similarly, the most pressing need for the Montana public school system is the consolidation of many school districts. Authorities of the Montana Education Association point out that Montana is a State of vast spaces and small population. Consolidation is dependent to a considerable extent upon the highways.

There is no one answer to all the problems raised by the educators. Before the schools are improved, the needs will have to be examined locally and the necessary funds obtained. Dr. Worth McClure, executive secretary of the American Association of School Administrators, one of the most influential school groups in the country, points to the serious difficulties caused by lack of money to meet fast-growing enrollment and offset rapid increase in costs as an immediate problem to be considered.

"More teachers will cost more money," he notes. "Teachers' salaries, always behind the rise of living costs, are now falling further behind than ever. Everything the schools use costs more than it did before Korea. There is evidence that the substantial increase in the national budget made necessary by national defense is beginning to dry up State and local sources of school support."

Despite the growing problems faced by the schools, educators everywhere are confident that the educational facilities will be strengthened rather than weakened in the immediate years ahead. They point to the tremendous interest taken by the public, as evidenced by the hundreds of citizens' school committees throughout the country, as proof that people everywhere are ready and willing to support the free public schools. Strong schools will strengthen our democratic traditions.

APPENDIX F: MISCELLANEOUS

1. AN ACT FOR THE ADMISSION OF THE STATE OF CALIFORNIA INTO THE UNION, SEPTEMBER 9, 1850 (9 STAT. 452-453)

An Act for the Admission of the State of California into the Union

Whereas the people of California have presented a constitution and asked admission into the Union, which constitution was submitted to Congress by the President of the United States, by message dated February thirteenth, eighteen hundred and fifty, and which, on due examination, is found to be republican in its form of government:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the State of California shall be one, and is hereby declared to be one, of the United States of America, and admitted into the Union on an equal footing with the original States in all respects whatever.

SEC. 2. *And be it further enacted*, That, until the representatives in Congress shall be apportioned according to an actual enumeration of the inhabitants of the United States, the State of California shall be entitled to two representatives in Congress.

SEC. 3. *And be it further enacted*, That the said State of California is admitted into the Union upon the express condition that the people of said State, through their legislature or otherwise, shall never interfere with the primary disposal of the public lands within its limits, and shall pass no law and do no act whereby the title of the United States to, and right to dispose of, the same shall be impaired or questioned; and that they shall never lay any tax or assessment of any description whatsoever upon the public domain of the United States, and in no case shall nonresident proprietors, who are citizens of the United States, be taxed higher than residents; and that all the navigable waters within the said State shall be common highways, and forever free, as well to the inhabitants of said State as to the citizens of the United States, without any tax, impost, or duty therefor: *Provided*, That nothing herein contained shall be construed as recognizing or rejecting the propositions tendered by the people of California as articles of compact in the ordinance adopted by the convention which formed the constitution of that State.

Approved, September 9, 1850.

2. SENATOR NYE'S RESOLUTION AUTHORIZING UNITED STATES TITLE TO SUBMERGED LANDS AND PETROLEUM DEPOSITS, PASSED BY SENATE AUGUST 19, 1937. (S. J. RES. 208, 75TH CONG., 1ST SESS.)

JOINT RESOLUTION

Relative to the establishment of title of the United States to certain submerged lands containing petroleum deposits.

Whereas the petroleum reserves in the United States are constantly decreasing; and

Whereas the oil reserves now owned by the United States are in serious danger of depletion or loss from various causes; and

Whereas large petroleum deposits underlie various submerged lands along the coast of the United States and below low-water mark and within a distance of three miles under the ocean below said low-water mark; and

Whereas all such submerged lands below said low-water mark and within such three-mile limit lying along the coast of the United States are asserted to be the property of the United States; and

Whereas various persons have heretofore entered, or in the immediate future intend and propose to enter, upon such submerged lands and remove the petroleum deposits underlying the same, without the consent or permission of the United States, and to the irreparable damage and injury of the United States; and

Whereas immediate action on the part of the United States is necessary to preserve such petroleum deposits for the future use of the United States: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Attorney General of the United States be, and he is hereby, authorized and directed, by and through speedy and appropriate proceedings, to assert, maintain, and establish the title and possession of the United States to the submerged lands aforesaid, and all petroleum deposits underlying the same, and to cause and effectuate by proper proceedings the removal and ejectment of all persons now or hereafter trespassing upon or otherwise occupying the said submerged lands or removing the petroleum deposits therefrom, without the consent and permission of the United States, and through such proper proceedings to be by the said Attorney General instituted, to stop and prevent the taking or removing of petroleum products by others than the United States from the said submerged lands as aforesaid; and be it further

Resolved, That the said Attorney General be, and he is hereby, authorized to bring such actions or suits in the name of the United States, and to incur such expenses and disbursements in connection therewith as he may deem properly necessary to effectuate and accomplish the directions and purposes of this joint resolution.

3. VETO MESSAGE FROM THE PRESIDENT OF THE UNITED STATES, AUGUST 1, 1946

[H. Doc. No. 765, 79th Cong., 2d sess.]

MESSAGE FROM THE PRESIDENT OF THE UNITED STATES RETURNING WITHOUT HIS APPROVAL THE JOINT RESOLUTION (H. J. RES. 225) TO QUIET THE TITLES OF THE RESPECTIVE STATES, AND OTHERS, TO LANDS BENEATH TIDEWATERS AND LANDS BENEATH NAVIGABLE WATERS WITHIN THE BOUNDARIES OF SUCH STATES AND TO PREVENT FURTHER CLOUDING OF SUCH TITLES

To the House of Representatives:

I return herewith, without my signature, House Joint Resolution 225, entitled "A joint resolution to quiet the titles of the respective States, and others, to lands beneath tidewaters and lands beneath navigable waters within the boundaries of such States and to prevent further clouding of such titles."

The purpose of this measure is to renounce and disclaim all right, title, interest, claim, or demand of the United States in "lands beneath tidewaters," as defined in the joint resolution, and in lands beneath all navigable waters within the boundaries of the respective States, and to the minerals in such lands. The phrase "lands beneath tidewaters" is defined so broadly as to include all lands, either submerged or reclaimed, situated under the ocean beyond the low-water mark and extending out to a line three geographical miles distant from the coastline or to the boundary line of any State whose boundary at the time of the admission of the State to the Union, extended oceanward beyond three geographical miles. Lands acquired by the United States from any State or its successors in interest, or through conveyance or condemnation, would be excluded from the operation of the measure. There would also be excluded the interest of the United States in that part of the Continental Shelf (lands under the ocean contiguous to and forming part of the land mass of our coasts) which lies more than 3 miles beyond the low-water mark or the boundary of any particular State.

On May 29, 1945, at my direction, the then Attorney General filed a suit in the United States district court at Los Angeles, in the name of the United States, to determine the rights in the land and minerals situated in the bed of the Pacific Ocean adjacent to the coast of California and within the 3-mile limit above described. Thereafter, in order to secure a more expeditious determination of the matter, the present Attorney General brought suit in the Supreme Court of the United States. The case in the district court was dismissed. I am advised by the Attorney General that the case will be heard in the Supreme Court and will probably be decided during the next term of the Court.

The Supreme Court's decision in the pending case will determine rights in lands lying beyond ordinary low-water mark along the coast extending seaward for a distance of 3 miles. Contrary to widespread misunderstanding, the case does not involve any tidelands, which are lands covered and uncovered by the daily ebb and flow of the tides: nor does it involve any lands under bays, harbors, ports, lakes, rivers, or other inland waters. Consequently the case does not constitute any threat to or cloud upon the titles of the several States to such lands, or the improvements thereon. When the joint resolution was being debated in the Senate, an amendment was offered which would have resulted in giving an outright acquittance to the respective States of all tidelands and all lands, under bays, harbors, ports, lakes, rivers, and other inland waters. Proponents of the present measure, however, defeated this amendment. This clearly emphasized that the primary purpose of the legislation was to give to the States and their lessees any right, title, or interest of the United States in the lands and minerals under the waters within the 3-mile limit.

The ownership of the land and resources underlying this 3-mile belt has been a subject of genuine controversy for a number of years. It should be resolved appropriately and promptly. The ownership of the vast quantity of oil in such areas presents a vital problem for the Nation from the standpoint of national defense and conservation. If the United States owns these areas, they should not be given away. If the Supreme Court decides that the United States has no title to or interest in the lands, a quitclaim from the Congress is unnecessary.

The Attorney General advises me that the issue now before the Supreme Court has not been heretofore determined. It thus presents a legal question of great importance to the Nation, and one which should be decided by the Court. The Congress is not an appropriate forum to determine the legal issue now before the Court. The jurisdiction of the Supreme Court should not be interfered with while it is arriving at its decision in the pending case.

For the foregoing reasons I am constrained to withhold my approval of the joint resolution.

HARRY S. TRUMAN.

THE WHITE HOUSE, August 1, 1946.

4. RESOLUTION REQUESTING UNITED STATES TO PROTECT GULF FISHING INDUSTRY, INTRODUCED BY FOUR TEXAS CONGRESSMEN, APRIL 27, 1950

On April 27, 1950, 81st Congress, 2d session, the following identical bills were introduced in the House of Representatives:

H. Res. 558—Mr. Thompson of Texas

H. Res. 559—Mr. Bentsen of Texas

H. Res. 560—Mr. Lyle of Texas

H. Res. 561—Mr. Combs of Texas

The text of the resolutions, which were referred to the Committee on Merchant Marine and Fisheries, is as follows:

"RESOLUTION

"Whereas the fishing industry is an important part of the economy of the United States; and

"Whereas the growing population of the Nation emphasizes the increasing future importance of fish, including shellfish, as food; and

"Whereas the fishing vessels of all nations of the world have, under the provisions of international law, had free access to international waters; and

"Whereas these international waters have long been established as those lying more than three miles beyond any internationally recognized coast line; and

"Whereas for a period of many years the fishing industry of the United States has been pursuing its activities off the coasts of the Dominion of Canada, the Republic of Mexico, and other nations of the Western Hemisphere; and

"Whereas the United States has granted complete reciprocal privileges to vessels of all other nations; and

"Whereas on or about April 23, 1950, five shrimp vessels owned and operated by citizens of the United States and under the registry of the United States, fishing approximately one hundred and twenty miles southeast of Brownsville, Texas, in international waters twenty-one fathoms deep, were seized by a gunboat of the Republic of Mexico, and together with their crews were conducted to the port of Tampico, Mexico, where they are presently detained; and

"Whereas the action of such gunboat is at complete variance with the policy of warm and friendly relations so carefully established by the statesmen of the United States and the neighboring Republic of Mexico; and

"Whereas to permit the violation of this elemental provision of the international code, under which the fishing industries of all nations have been established, would jeopardize the fishing industries of all nations; and

"Whereas the operators of the five United States vessels in question are financially incapable of defending themselves against such seizure and the attendant loss of not only their property but also the catch which was on board such vessels at the time of such seizure; and

"Whereas the operators of such vessels had every reason to believe that their international rights would be protected by the Government of the United States: Therefore be it

Resolved, That the Secretary of State is requested to cause an immediate study to be made of the effect on the fishing industry of the United States of the present action of the Government of the Republic of Mexico. Because of the urgency of the situation the Secretary is requested to report the findings of such study to the House of Representatives at the earliest possible time."

3. REPLY TO THE STATES ATTORNEYS GENERAL: SOLICITOR GENERAL PHILIP B. PERLMAN TO SENATOR JOSEPH C. O'MAHONEY, SEPTEMBER 1, 1951

OFFICE OF THE SOLICITOR GENERAL,
Washington, D. C., September 7, 1951.

The Honorable JOSEPH C. O'MAHONEY,
Chairman, Senate Committee on Interior and Insular Affairs,
Senate Office Building, Washington, D. C.

DEAR SENATOR O'MAHONEY: In connection with the consideration being given to the joint resolution (S. J. Res. 20) introduced by you for the purpose of providing for the administration, by the Secretary of the Interior, of the mineral resources of the sea adjacent to the United States, and the bill (H. R. 4484) recently passed by the House, and now also pending in your Committee on Interior and Insular Affairs, it would seem advisable for you and all the Members of the Senate to have an additional statement from those responsible for the conduct of the litigation brought by the Government to solve certain aspects of the problem.

It seems advisable for this to be done because the National Association of Attorneys General, composed of State officials, has printed and distributed a pamphlet entitled "Every State Has Submerged Lands," containing a number of inaccurate and misleading statements, and arguments having no valid basis either in fact or law. This pamphlet was also printed in the Congressional Record, issue of July 24, beginning at page 8914, and was inserted during a discussion on the floor of the Senate concerning the ownership of rights in the marginal sea.

Your measure (S. J. Res. 20) is designed to give impetus to plans for immediate increased development of offshore petroleum and gas deposits, the need for which is emphasized by the situation in Korea, as well as in other parts of the world. H. R. 4484 is designed to convey away from the United States forever, all of its established rights to mineral and all other resources in the submerged lands of the marginal sea. The definition of "marginal sea" in H. R. 4484 contemplates areas, in some instances, far exceeding the areas claimed by the United States or recognized by other sovereign nations as being subject to the exercise of territorial sovereignty. H. R. 4484 would attempt to substitute State "ownership" for the area within the actual or claimed State seaward "boundary."

ENRICHMENT OF THREE STATES

The bill (H. R. 4484) undertakes to give the adjacent States 37½ percent of the revenue received by the United States from oil and gas deposits in all submerged lands seaward of State "boundaries" as defined in the bill, to the edge of the Continental Shelf and beyond wherever the subsoil appertains to the United States. In brief, the effect of H. R. 4484 is to enrich the States of California, Louisiana, and Texas with the oil and gas resources in the marginal sea, at the expense of the other 45 States of the Union, and, in addition, to give those same three States 37½ percent of all revenues received by the United States from such minerals in submerged lands of the Continental Shelf, where the exclusive jurisdiction of the United States could never be seriously questioned by any State.

EVERY STATE HAS SUBMERGED LANDS

This, as has been stated, is the caption of the pamphlet placed in the hands of the Members of both branches of the Congress, printed in the Congressional Record, and otherwise circulated. Under that banner, the Attorneys General's pamphlet purports to prove that the decisions by the Supreme Court as to the status of the submerged lands of the marginal sea involve the title to the submerged lands of the rivers, harbors, bays, lakes, and other inland waters of the States.

This is not true, and never has been true. Those in charge of the quitclaim legislation know it. Part of the effort to legitimize the trespass on Federal areas by 3 States at the expense of the other 45 States is directed to concealing the true status of submerged lands of inland waters, and to block legislation proposed by the Government to dispose permanently of baseless and frivolous contentions in which the entire pamphlet is framed.

The Attorneys General's pamphlet contains a statement of 11 reasons for the support of the Walter bill (H. R. 4484). These reasons and the answers to them are:

ATTORNEYS GENERAL'S CONTENTION NO. 1

"Each of the States owns and possesses valuable submerged lands within its boundaries, the revenues from which are devoted to education and other important functions of State government."

This statement, standing alone, is undoubtedly true. What is false about it—and the publication with it of lists of the acreages of lands under inland waters, the Great Lakes and the marginal sea; and of the known resources of the waters and the submerged lands of such waters—is the treatment of the facts as if such waters and their submerged lands and resources have been held to be subject to the paramount power and full dominion of the United States. No more complete misrepresentation has ever been made to the Members of Congress of the United States. In this way, and only in this way, could the proponents of the Walter bill dare print a list of every one of the 48 States with the acreages and resources of submerged lands of inland waters, in an attempt to persuade the elected representatives of all the States, that, unless the Walter bill is enacted, they may be deprived of valuable resources belonging to their people.

The truth is that not a pint of inland waters or an inch of the lands under such waters is involved or ever has been involved in the controversy over rights in the marginal sea. The Walter bill, if enacted, would vastly enrich 3 States, at the expense of the other 45 States, through the continued development and exploitation by California, Louisiana, and Texas of vast oil and gas resources in the sea belonging to all the people of the Nation.

ATTORNEYS GENERAL'S CONTENTION NO. 2

"The title of each of the 48 States to its submerged lands, whether inland or coastal, has been held under a century-old rule of law that this property is owned by the individual States rather than by the Federal Government."

This is another misrepresentation, just as bold inaccurate as the first reason. The pamphlet says that State ownership of this type of property, whether beneath rivers, lakes, bays, marginal seas, or Great Lakes, has been recognized in at least 53 previous Supreme Court decisions as a right of State sovereignty. So far as marginal seas are concerned, this is simply not true. There are no such decisions by the Supreme Court. There never have been.

The pamphlet says that the rule on which the States rely was stated in the case of *Pollard v. Hagan* (3 How. 212) in the year 1844, where the Supreme Court (p. 230) said: "The shores of navigable waters, and the soils under them, were not granted by the Constitution to the United States, but were reserved to the States respectively." The Pollard case involved inland waters, and not the soils under the sea. It involved title to a lot between Church Street and North Boundary Street in the city of Mobile, Ala. It was proved that years before the property had been covered by waters of the Mobile River at high tide.

The case involved a true tideland, to which the United States would have no claim, even if it were on the sea; and it involved what had been submerged lands of an inland water where the national external sovereignty of the United States does not apply. The Pollard case had nothing to do with Federal rights in the submerged lands of the marginal sea. Neither did any of the other 52 Supreme Court cases in which the Pollard case was subsequently cited with approval.

POLLARD CASE NOT IN POINT

To the contrary, the Supreme Court expressly rejected, in the case of *United States v. California* (332 U. S. 19 (June 23, 1947)), the very statement now asserted as a fact by the pamphlet issued by the Attorneys General. The Supreme Court declared that the rule stated in the Pollard case related to inland waters (p. 36), and it found no basis upon which that rule could or should be extended to the soil beneath the ocean. It examined the cases cited by the States and found that none of them had decided the issue. The Supreme Court discussed the circumstances which "pointedly raised this State-Federal conflict for the first time."

Even Mr. Justice Reed, who was the only one of the eight members of the Court participating in the California case who believed that the State was the owner of the lands involved, observed in his dissenting opinion that "no square ruling of this Court has determined the ownership of those marginal lands * * *" (332 U. S. 43). And that was in the October term, 1946, of the Supreme Court. There is no basis in fact or law for any claim that there was any century-old rule under which the States had rights in the soil of the ocean.

The first tangible claim of rights in the marginal sea was made by Secretary of State Thomas Jefferson, on behalf of the United States, in the year 1793. The Supreme Court found that "not only has acquisition, as it were, of the 3-mile belt (in the sea) been accomplished by the National Government, but protection and control of it has been and is a function of national external sovereignty (p. 34)." Therefore, the rule giving the United States authority over and rights in the soil under the coastal waters had its genesis in acts of the Federal Government beginning at least 158 years ago.

APPROVAL BY SENATE

The answer to the unsound contention that there is or was any century-old rule giving ownership of the submerged lands in the marginal sea to the States does not rest upon court determinations alone. As recently as August 19, 1937, only 14 years ago, the Senate of the United States passed a resolution (S. J. Res. 208, 75th Cong., 1st sess.) the preamble of which declared, in part: "Whereas large petroleum deposits underlie various submerged lands along the coast of the United States and below low-water mark and within a distance of 3 miles under the ocean below said low-water mark; and, whereas all such submerged lands below said low-water mark and within such 3-mile limit lying along the coast of the United States are asserted to be the property of the United States; and whereas various persons have heretofore entered, or in the immediate future propose to enter upon such submerged lands and remove the petroleum deposits underlying the same without the consent or permission of the United States, and to the irreparable damage and injury of the United States; and whereas immediate action on the part of the United States is necessary to preserve such petroleum deposits for the future use of the United States."

The resolution then went on to provide that " * * * the Attorney General of the United States be, and he is hereby, authorized and directed by and through speedy and appropriate proceedings, to assert, maintain, and establish the title and possession of the United States to the submerged lands aforesaid, and all petroleum deposits underlying the same, and to cause and effectuate by proper proceedings the removal and ejectment of all persons now or hereafter trespassing upon or otherwise occupying the said submerged lands or removing the petroleum deposits therefrom, without the consent and permission of the United States, and through such proper proceedings to be by the said Attorney General instituted, to stop and prevent the taking or removing of petroleum products by others than the United States from the said submerged lands as aforesaid."

This resolution was reported out of the Senate Committee on the Judiciary unanimously. It was subsequently passed by the Senate unanimously. It then went to the House, where it was amended by the House Committee on the Judiciary so as to relate only to the submerged lands off the State of California. In that form it was reported favorably by the committee but never came to a vote on the floor of the House.

COURT AFFIRMED SENATE

So that when all of the criticisms, claims, and misrepresentations appearing in the Attorney General's pamphlet are examined and analyzed it is clear that all the Supreme Court has done is to affirm and give vitality to rights

declared by the Senate of the United States as recently as 1937 to be vested exclusively in the United States.

When Senate Joint Resolution 208 was passed by the Senate in 1937 California was in the early stages of its seizure of Federal oil and gas resources in the marginal sea. And that was sometime before the extent of the oil and gas resources off the shores of Louisiana and Texas in the Gulf of Mexico had become generally known. The resultant pressures on Congress to give the Nation's vital resources away had not then developed. The alleged long-recognized, century-old rule of State ownership, which never really existed, had not been discovered as recently as 1937 by any Member of the Senate of the United States.

ATTORNEYS GENERAL'S CONTENTION NO. 3

"This long-recognized rule of law, applicable to the waters and submerged lands of every State, has been destroyed and State titles clouded by the Supreme Court's 'tidelands' decision. The way has been opened for foreign nations to claim resources within our territorial waters."

It is difficult to deal patiently with this series of misstatements. In the first place it should be noted that the word "tidelands" is a misnomer; the United States does not claim any rights, by reason of national sovereignty, in the soil of lands covered by the tides, and its rights begin at the low-water mark outside of tidelands, and seaward of inland waters, such as rivers, bays, etc., which empty into or are arms of the ocean.

There is nothing, absolutely nothing, in the decisions by the Supreme Court in the *California* case or in the *Louisiana* (339-U. S. 669) and *Texas* (339 U. S. 707) cases which destroys or impairs or affects in any degree any long-recognized rule of law, applicable to the inland waters and submerged lands under inland waters of any State. The Supreme Court in the *California* case, may fairly be said to have confirmed State rights in "lands under inland navigable waters such as rivers, harbors, and even tidelands down to the low-water mark" (p. 30). The State titles which are actually clouded relate solely to a few isolated areas offshore (the United States submitted but three such areas off California where oil and gas are being extracted, and the master appointed by the Supreme Court in that case added but four more involving other and less important considerations) where it is necessary to arrive at more exact determinations of the locations of State and Federal rights.

STATE TITLES ALWAYS CLOUDED

The coast line of Louisiana, because of its sinuosity, presents some difficulties, but the coast line of Texas appears to be free from such difficulties. In any event, those problems were always there and the decisions by the Supreme Court did not in themselves create the "clouds." Moreover, the "clouds" along the borders of the California areas could have been removed long ago if the representatives of that State had shown any real desire to expedite the necessary determinations, instead of dragging out the proceedings over a period of years.

The attorneys general's pamphlet also says that by departing from the long-established rule that lands under territorial waters within the boundaries of the States are American soil and controlled by State laws of property ownership, the Supreme Court has for the first time in our history opened the door for foreign nations to assert claims within our boundaries. This, of course, is sheer nonsense. The Supreme Court did not depart from any long-established rule. Inland waters are not involved, and never were involved despite the misleading statements in the pamphlet. The United States has never claimed territorial sovereignty over an area greater than three nautical miles offshore from the low-water mark, or seaward from inland waters.

In support of its contention that the Supreme Court has opened the door for foreign claims, the attorneys general's pamphlet quotes from a joint statement signed by Judge Manley O. Hudson, Dean Roscoe Pound, Dr. Charles Cheney Hyde and other experts in the field of international law. That statement concerned the use by the Supreme Court, in its opinion in the *Texas* case (339 U. S. at 719), of the phrase once low-water mark is passed the international domain is reached. The writers quoted by the pamphlet erroneously assume that the Court meant by the words "international domain" that once low-water mark is reached the international sovereignty and not the United States, has paramount rights in the area—as if the rights of the United States in that area were not greater than those in the high seas.

NO CLAIMS BY FOREIGN NATIONS

But it is obvious from the Court's opinion that it meant no such thing, and that all it was saying was what had been said in the California case, that once low-water mark is reached the Federal Government's paramount rights are derived historically from international law and the agreement of the nations. The door was shut, not opened, to claims by other nations to areas within the marginal sea. No other construction can fairly be put on the opinions in the submerged-lands cases.

Moreover, it should be pointed out, the experts quoted in the pamphlets were retained and personally paid by Texas during the presentation of its case to the Supreme Court. Their views were considered and rejected by that Court.

In this same connection, it should be noted that President Truman, on September 28, 1945, issued a proclamation claiming, on behalf of the United States, the control over the mineral resources of the submerged lands of the seas off the shores of the United States to the edge of the Continental Shelf. This assertion of the rights of the United States would seem to dispose of the "fears" of foreign claims expressed in the Attorneys General's pamphlet. The controversy before the Senate arises from the seizure by the three States of resources belonging to the Nation.

The Attorneys General's contention concerning boundaries points up the problem. Louisiana, for example, by act of its legislature and without permission from the Congress or any other Federal authority, purported to extend its boundaries 27 miles out to sea. Texas, not to be outdone, and in the light of increasing information as to oil deposits in the sea, by act of its legislature, purported to extend its boundaries all the way to the edge of the Continental Shelf, in some instances about 150 miles to sea.

STATE BOUNDARIES NOT IN ISSUE

But the question of a State boundary has no real bearing on the problem. A State has no more right to seize Federal property within its boundaries, land or sea, than it has to seize the property of private individuals within its boundaries. The United States has not questioned the validity of these unilateral attempted extensions of State boundaries because it is possible that the exercise of State police power in such areas may be advisable so long as there is no conflict with Federal authority or rights. But the effort now being made to translate "boundary" into "ownership" is a concept based on no known principle of law.

Perhaps something else should be said about the relevancy of international law to determine the status of the marginal sea. It is a fact that the Nation's rights in the submerged lands of the marginal sea were acquired through the acquiescence or approval of other sovereign nations. And it is a fact, no matter how much the pamphlet may endeavor to distort it, that after the low-water mark is passed the international domain—in the sense that rights and powers are acquired under international law—is reached.

The theory under which the limited authority originally claimed on behalf of the United States by Secretary of State Jefferson in a marginal sea of 3 miles was expanded into paramount power and full dominium is the same as that under which the United States has given recognition to similar rights and powers in their marginal seas vested in other sovereignties composing the family of nations.

PROBLEM ARISING ELSEWHERE

It so happens that unauthorized encroachments on the international domain are beginning to create problems in different parts of the world. Litigation involving the same principles of international law as are believed to be controlling in the California, Louisiana, and Texas cases is pending between European nations in the International Court of Justice at The Hague. The United States has an ever-increasing interest in the outcome of such litigation. The United States may be put into inconsistent positions, and may have its rights impaired, by the efforts of three of our States to gain enormous financial benefits for themselves to the detriment of the rest of the Nation.

ATTORNEYS GENERAL'S CONTENTION NO. 4

"Legislation is necessary for each of the 48 States in order to restore and confirm their ownership of navigable waters and submerged lands within their respective boundaries."

This statement, as has been pointed out, is untrue. State ownership of submerged lands under inland waters has not been affected by the rejection of State claims to the resources of the submerged lands of the marginal sea, and, as has been shown, beyond even the marginal sea. But in order to take away from quitclaim proponents the opportunity to continue to present such a baseless contention, the appropriate Federal agencies prepared and submitted to Congress a bill releasing and relinquishing to the States, and to all others lawfully entitled, all right, title, and interest of the United States, if any it has, in and to all lands beneath navigable inland waters within the boundaries of the respective States.

Moreover, the same bill confirms and ratifies any right to construct and use any dock, pier, wharf, jetty, or other structure in the open ocean, or any such right to the surface of filled-in or reclaimed lands in such areas. That bill, introduced during this session by you, Senator O'Mahoney, is pending in the Senate as S. 1540. It was introduced in the Senate of the Eighty-first Congress as S. 2153.

It has been introduced from time to time in both the House and Senate during the past few years, but it has never moved out of any committee to which it has been referred.

The States and Federal Government agree that the Federal Government has no claim to the submerged lands of inland navigable waters, but the attorneys general continue to argue that the States' rights are in danger all the while that legislation to eliminate the argument stays in committee.

NO AMENDMENTS OFFERED

Nor have the proponents of quitclaim legislation ever suggested any amendments to S. 1540, or its predecessors, to cure the alleged defects they profess to see in it. The only possible inference which can be drawn from this situation is that the supporters of donating the submerged marginal land to the States have succeeded in blocking the legislation which would put an end to a plain, clear misrepresentation.

The Attorneys General's pamphlet discusses under three subheads the alleged need of such legislation as is embodied in the Walter bill, as follows: "Marginal Sea of Coastal States," "Great Lakes," and "Inland Waters." As to the "Marginal Sea of Coastal States," the pamphlet says that only California, Texas, and Louisiana have been sued, but that the Attorney General and the Solicitor General of the United States claim that the decisions apply equally against all of the other 18 coastal States.

Of course they do. Any other result would be unthinkable under the Constitution, where all States are on an equal footing. But the pamphlet also says that it is certain that "this area, together with all artificially filled lands along the beaches, and all bays wider than 10 miles (such as Boston and Chesapeake Bays) are now being claimed by the Federal Government." This statement is plainly inaccurate.

One of the recognized exceptions to the 10-mile rule followed by the United States and other sovereign nations as a method of differentiating inland water from open sea is the "historical bay." Boston and Chesapeake Bays are historical bays, and the United States accepts them as inland waters, not subject to its national external sovereignty. As early as our brief in the California case (filed in January 1947), we called attention to the existence of historical bays larger than 10 miles, and expressly cited Chesapeake Bay as the prime example.

LONG ISLAND SOUND ISLAND

So, for another example, are other large bodies of water such as Long Island Sound, which has been adjudicated to be an inland water. And whatever may be the technical legal status of artificially filled lands along beaches, or other structures which may have been erected along the shores of and into the sea, the United States is ready and willing, and always has been, to release and relinquish any rights it may have to such fills or structures. It is so provided in S. 1540, already mentioned, drafted by the attorneys of the Defense, Interior and Justice Departments, the passage of which has been blocked by the very people, or their representatives or associates, who advance the objection.

As to the "Great Lakes," the pamphlet claims that the Walter bill is "necessary to remove the cloud of the recent 'tidelands' cases from their (States') titles." Permit me to repeat, again, the California, Louisiana, and Texas cases had nothing to do with any inland waters, but solely with the submerged lands of the open sea. As long ago as November 27, 1945, the then Attorney General of

the United States, Tom C. Clark, now a Justice of the Supreme Court, addressing the annual conference of the National Association of Attorneys General, the same organization responsible for the pamphlet, said: "My understanding is that the Great Lakes are considered inland waters, and no contention has been made by anyone that a marginal sea exists there. The present suit (California) therefore raises no question as to the title of the lands beneath the Great Lakes."

GOVERNMENT'S POSITION IGNORED

Five months later, the then Solicitor General, J. Howard McGrath, now Attorney General, wrote a letter in which he stated that Attorney General Clark's views expressed the position of the Federal Government. So that now, 6 years after Attorney General Clark took a public position on this subject, the Attorneys General's pamphlet continues to ignore the Government's true position. The pamphlet doesn't even mention the fact that at least two Attorneys General and two Solicitors General have said that the submerged lands of the Great Lakes are not involved.

Instead, the pamphlet says that "these 8 (Great Lake) States stand to lose more property and revenues than the 21 coastal States." The truth is that the 8 Great Lake States stand to lose exactly nothing. The truth is that their people and those of all the 45 States not immediately concerned stand to gain much if the Walter bill is defeated and proper legislation authorizing the officials of the United States to manage its own resources is enacted.

As to "inland waters," the attorneys general's pamphlet makes the amazing contention that S. 1540—the bill to dispose of, forever, the phony claim that inland waters are involved—was prepared by the Attorney General "in an attempt to split the ranks of the State." The pamphlet says that "State officials oppose this (1) as an effort to divide their forces, (2) as unfair to the coastal and Great Lakes States, and (3) because S. 1540 would recognize State titles only to the beds of the streams with no mention of waters and minerals but with specific reservation of all rights relating to the national defense."

INLAND RESOURCES NOT INVOLVED

This collection of objections would do more credit to the fertile imaginations of Gilbert and Sullivan than to any serious treatment of the subject, either factually or legally. Of course, S. 1540 is an effort to divide the forces of the three States (California, Louisiana, and Texas) from those of the other States. For years those three States have been conducting a campaign based upon the totally erroneous premise that inland waters are affected by the marginal-sea decisions. They have obtained the backing of inland and other coastal States to which they are not entitled, and which they are certain to lose when the facts are known and studied.

S. 1540 gives an irrefutable answer to their baseless claim that the resources of inland submerged lands are involved, although no such evidence is really needed. It is high time that all the other coastal States, and all inland States, realize that their best interests are with the United States, and not with the three States engaged in seizing vital national resources for their own profit. Of course, the forces of California, Louisiana, and Texas should be divided.

This controversy should be decided by the Congress on its merits. And it is only by turning matters inside out, by introducing baseless claims and ignoring realities, that the attorneys general's pamphlet can advance the idea that S. 1540, which confirms State title to all inland submerged lands, is unfair to the coastal States by giving all the States the assurance as to inland waters the pamphlet says they desire and need.

The attorneys general's pamphlet undertakes to give an illustration of an alleged attempt by the Federal Government to take inland waters from the States and even from private owners. It cites a suit recently brought by the Attorney General to determine the ownership of rights to the waters of Santa Margarita River in California. The pamphlet says the Attorney General "is suing private appropriators and users of water on the same theory as was applied in the tidelands cases."

MARINES NEED FOR WATER

This is a complete misrepresentation, and if the facts were known to the pamphlet's authors there is no excuse for it. Whatever rights the Federal Government has in the Santa Margarita River in California were acquired by

purchase, and came with the purchase of Santa Margarita Ranch, about 135,000 acres of land through which the river flows, and which is now occupied by the United States Marine Corps as Camp Pendleton. The Marine Corps needs and is entitled to water purchased with taxpayers' funds for its use.

There is a controversy as to just what rights were acquired by the United States through the purchase, and the courts have been asked, at the instance of the Navy Department, to determine the question. The Government paid for land including about 21 miles of riparian rights in the river.

The rights which it is asserting are the normal rights of a riparian owner, not the rights appurtenant to national external sovereignty which were established and vindicated in the California, Louisiana, and Texas cases. All this was explained in detail during the testimony of Assistant Attorney General Vanech before Subcommittee No. 1 of the House Committee on the Judiciary on June 25, 1951, and printed in the Congressional Record (vol. 9, No. 124, 82d Cong., July 9, 1951, App. A4371-4373).

* WATER RIGHTS NOT ADJUDICATED

For more evidence of Federal Government claims on inland waters, the pamphlet submits the case of *Nebraska v. Wyoming* (295 U. S. 40 (1935)), in which the United States intervened to claim all unappropriated water in the North Platte River. *Nebraska v. Wyoming* (325 U. S. 589 (1945)). The truth about this is that the United States has been engaged in the construction of irrigation and other projects in accordance with the provisions of the reclamation and other acts of the Congress. It claimed water rights in Wyoming by cessions from France, Spain, and Mexico and by agreements with Texas. The Court, however, did not pass upon these claims because it found that the United States had obtained the water rights on which the North Platte project and the Kendrick project rested, in compliance with State law (p. 612).

In acquiring these rights the United States observed the provisions enacted by the State of Wyoming for distribution of rights to water, and it became entitled to such rights as were involved in the litigation by submitting itself to State authority on the same basis as any other owner or claimant. Even its unadjudicated claims rested upon agreements. There is no relationship whatever between the principles involved in these cases and the principles of law determining rights in the submerged lands of the marginal sea. If anything, these cases are illustrations of the absence of any claim to the waters or submerged lands or inland waters by the United States based on national sovereignty.

The next objection under this heading is just as baseless. Section 104 of S. 1540 is described as a joker because S. 1540, the pamphlet says, does not mention "waters" or "minerals." But section 1 of S. 1540 expressly relinquishes all right, title, and interest of the United States, if any it has, in and to all lands beneath navigable inland waters, and the term "inland waters" is defined in section 2 to include the waters of bays, rivers, ports, and harbors which are landward of the open sea.

ALL MINERAL RIGHTS QUITCLAIMED

Any Federal claim to minerals or anything else in the submerged lands of inland waters is an interest expressly released and relinquished forever. No one can deny that the bill does give up any claim that the United States may have—and it has none—to the oil, or other resources, of the submerged lands beneath inland waters. If the proponents of quitclaim legislation have any real doubts on that score, let them propose language which, in their view, will more effectively carry that purpose into law.

The remaining objection to S. 1540 is the reservation of rights relating to national defense. The whole of section 104 reads:

"Nothing contained in this act shall be construed to repeal, limit, or affect in any way any provision of law relating to the national defense, fisheries, the control of navigation, or the improvement, protection, and preservation of the navigable waters of the United States; or to repeal, limit, or affect any provision of law heretofore or hereafter enacted pursuant to the constitutional authority of Congress to regulate commerce with foreign nations and among the several States."

This is a form of saving clause familiar to all who work in legislative matters. It is incorporated as a measure of caution in order to make certain that the bill does not reach matters not intended to be affected. The express and stated

purpose of S. 1540 is to confirm State title to the things enumerated in the bill. It is not intended to repeal, amend, or otherwise change provisions of existing law relating to the exercise of powers and the discharge of duties imposed by existing laws on the subjects enumerated in the saving clause.

STATES RIGHTS PROTECTED

Obviously, this general saving clause could not possibly contravene the express confirmation of State rights in the land beneath inland waters which it is the specific aim of the bill to assure. The fact that such an objection is made in the Attorneys General's pamphlet should put Congress further on guard against the advisability of any such general and all-inclusive grants of national rights as are contained in H. R. 4484.

ATTORNEYS GENERAL'S CONTENTION NO. 5

H. R. 4484, by Walter, of Pennsylvania, restoring the law of State ownership of this property, applies not only to the 28 coastal and Great Lake States but to each of the 48 States.

If there are any "Jokers" in any of the bills relating to rights in the marginal sea, the provisions of the Walter bill cited in the Attorneys General's pamphlet under this heading can fairly be so designated. The heading treats H. R. 4484 as restoring the law of State ownership of this property. The fact is, as the Supreme Court has pointed out four times (the California, Louisiana, and Texas cases, and the case of *Toomer v. Witsell* (334 U. S. 385, 402), there never has been State ownership of the submerged lands of the marginal sea.

However, the pamphlet points out that the Walter bill, in section 2, provides that the submerged lands which are to become State property are those covered by the tides up to the line of mean high tide and "seaward to a line three geographical miles distant from the coastline of each such State and to the boundary line of each such State where in any case such boundary as it existed at the time such State became a member of the Union, or as heretofore or hereafter approved by Congress, extends seaward (or into the Great Lakes or Gulf of Mexico) beyond three geographical miles * * *." This is the big "joker," through which not only is "boundary" translated into "ownership" for the purposes of State claims in the marginal sea but the area of the marginal sea is unequal as between the States, and the way is opened for continued and addition inroads upon national powers and rights.

UNEQUAL FOOTING

It so happens that California is not interested in the submerged area beyond 3 miles. The Continental Shelf along the Pacific is extremely narrow, but in the Gulf of Mexico the situation is different. Texas, when it came into the Union, claimed a boundary of three leagues, or 10½ land miles. The Walter bill, substituting "ownership" for "boundary," would give Texas a submerged area three times further out to sea than its neighboring State of Louisiana. Congress would immediately be besieged with demands by the forces of Louisiana to remedy this inequality.

Moreover Louisiana now claims a boundary and ownership of an area 27 miles offshore and Texas an area to the edge of the Continental Shelf, in some places from 100 to 150 miles from shore. Unless the States' forces are divided on these claims as with the others, the people of the Nation may lose all of their rights to the vital minerals in the submerged lands of the adjacent seas. Any act of Congress which inadvertently or by design approves a boundary claim far out to sea would probably, under the Walter bill, entail a grant of the vast resources of the submerged lands of the sea.

OWNERSHIP AND BOUNDARIES

Section 3 of the Walter bill makes State title to and ownership of all natural resources dependent upon State boundary. No such rule of law has ever before existed with respect to the submerged lands of the marginal sea. Boundaries for the exercise of police and taxing powers do not include rights of ownership in land or sea. The United States made the first claim of full rights in the sea. That claim embraced a 3-mile zone. It is recognized by international law.

The power of the United States to grant fee simple titles in the 3-mile zone recognized as the marginal sea is open to question, and the authority to make such grants in areas beyond those heretofore claimed as against other nations is still more doubtful.

ATTORNEY GENERAL'S CONTENTION NO. 6

"A quitclaim to the States is no gift. Equity and justice demand restoration of the property which the States have held and developed in good faith reliance upon 53 previous decisions of the Supreme Court of the United States."

The reverse is true. A quitclaim of national resources in the submerged lands of the marginal sea—and beyond, as the Walter bill contemplates—is a gift to 3 States at the expense of the other 45 States. Ever since this country was settled, disputes over title have been settled by the courts, first when colonial governments functioned, and then after the States were created. Jurisdiction over controversies between States, and between the Federal Government and States, was given to the Supreme Court by the Constitution.

The Supreme Court, when the controversy over rights in the marginal sea came before it for the first time, decided that the States had no title. " * * * the Federal Government rather than the State has paramount rights in and power over that (3 mile) belt, an incident to which is full dominion over the resources of the soil under that water area, including oil." (*U. S. v. California*, 332 U. S. at pp. 38, 39.)

As has been stated, there were no 53 previous decisions on the point. There weren't any. The Supreme Court found that the oil in the submerged lands of the marginal sea belonged, and always had belonged, to the United States. Three States ask Congress to give it, together with all other mineral resources of the submerged lands of the marginal sea, to them, at the same time arguing that such action is no gift, and that the law of the land, as determined by the duly constituted tribunal, should be ignored or changed for the benefit of three States and to the detriment of the rest of the Nation.

NO REVIEW OF DECISIONS

It is clear that, under the Constitution, the Congress cannot properly review or revise the Supreme Court's judicial determinations in the California, Louisiana, and Texas cases. Existing rights and powers have been decided by the Court, and legislation should start from the premise that the States have never had and do not now have title to the submerged lands and that the United States has full dominion and paramount rights, including the exclusive right to control the use and disposition of the resources of the ocean bed.

The true legislative issue then resolves itself into the query whether the Congress should give or donate the rights of the United States to the oil and gas, and the other valuable minerals, of the submerged coastal lands, to three States at the expense of the people of all the other States. Aside from legal arguments as to the rights of the coastal States—arguments which have now been authoritatively rejected by the judiciary—no reason has been advanced why such an outright gift or donation should be made.

Certainly there are sound reasons for the belief that the Federal Government is more capable of husbanding and guarding these resources, and of overseeing and supervising their development. It is in a far better position to gage and protect the national defense interest in these resources. And it is elementary justice that the benefits flowing from this Federal property should accrue, at least in part, to all the people of the country and not merely to the inhabitants of the States which happen to be adjacent.

LEGAL ISSUES RESOLVED

If the proponents of quitclaim legislation would accept the Supreme Court's decisions as resolving the legal issues, as I think they should, they would be hard put to it to advance one substantial reason of policy why this enormous donation by the United States to the three coastal States should be made.

The attorneys general's pamphlet says that "equity and justice" demand restoration of the property. The truth is that equity and justice demand that the baseless claims, upon which the 3 States already have been unjustly enriched, be dropped.

When facilities for taking oil and gas from the submerged bed of the ocean were developed, California, and then Louisiana and Texas, went out into the sea, through their lessees, and appropriated for their own use and benefit the mineral resources belonging to the United States. They did not ask or obtain permission from Congress or any other Federal agency. They simply took them. In 1937, the Senate of the United States passed Senate Joint Resolution 208 authorizing the Attorney General to assert and maintain the title of the United States to the oil in submerged lands of the marginal sea.

The resolution failed of passage in the House, but those States were on notice of the Federal Government's claims. However, they did not stop. When suit was finally brought, the States opposed the determination with all the facilities at their command. Notwithstanding this, the Attorney General made no effort to obtain reimbursement or damages for the prior seizure and sale of the Federal Government's oil.

JOINT OPERATIONS IN CALIFORNIA

The decision in the California case was handed down on June 23, 1947, and since that time operations off the coast of California have continued by California's lessees under agreements made by the Attorney General and the Secretary of the Interior with the State. The proceeds are being accumulated in special funds to await further court proceedings, and action by Congress. Although the attorneys general of Louisiana and Texas took part in the California case, and were, of course, fully advised of the effect of that decision on operations in the Gulf of Mexico, both of those States through their lessees continued to take the Federal Government's oil and gas, and made no effort to come to any agreement.

To the contrary, Texas, after the California decision, undertook to make leases in the Gulf of Mexico on a large scale, obtained the sum of approximately \$8,300,000 in bonuses, and began the collection of rentals for the leased areas. Louisiana, also ignoring the decision by the Supreme Court in the California case, entered into a comprehensive program of leasing of areas, in and beyond the marginal sea. Revenues from such areas in bonuses, royalties, and rentals accruing after the date of the California decision, total sums in the tens of millions.

The decisions by the Supreme Court in the Louisiana and Texas cases were handed down on June 5, 1950. It had been assumed that the Supreme Court would allow the United States to recover compensation for the loss of its natural resources, at least from the date of the California decision, when everybody concerned was on notice as to the Federal Government's paramount rights. But the Supreme Court declined to order these two States to account to the Federal Government for the oil and gas taken prior to the date of the decisions so that these 2 States profited by the long delays occurring, on account of motions, pleas, and objections after suits were filed.

NO ACCOUNTING BY STATES

The situation is, therefore, that nothing is to be recovered from California for oil and gas taken from the Federal Government's areas prior to June 23, 1947, and nothing is to be recovered from Louisiana or Texas from the oil and gas operations in the Gulf of Mexico authorized by them in the marginal sea and beyond, prior to June 5, 1950. So the Federal Government has lost, no matter what Congress may now decide to do, material resources of the submerged lands of the marginal sea worth hundreds of millions of dollars.

But that is not all. The practice by these three States has been to lease areas at a royalty on a fixed-percentage basis, usually 12½ percent. Further compensation is provided by awarding the leases to those offering the highest bonus payments. If existing leases are ratified and confirmed, as is now contemplated under the provisions of Senate Joint Resolution 20, which the Justice and Interior Departments have approved, then it is clear that the loss of all bonuses prior to June 5, 1950, means that the Federal Government will receive, from existing leases, much smaller royalty payments for oil and gas than if no bonus payments had been exacted.

In other words, the States have received and will keep the payments intended to be part of the compensation for natural resources to be taken in the future from areas covered by existing leases. No private person or corporation, faced with the loss of his property through unauthorized and deliberate appropriation by his neighbors, would ever be as generous as the Federal Government and the Supreme Court have been with the States of California, Louisiana, and Texas. They are being allowed to keep the many millions in revenues they obtained from natural resources belonging to the Federal Government.

DOUBLE PAYMENTS BY LESSEES

But that is still not all. Texas and Louisiana, even after the decisions of June 5, 1950, continued to collect royalties and rentals and other revenues from their lessees. They are collecting today. Most of the lessees began to pay the Federal Government after June 5, 1950, but, fearing some action by Congress, such as passage of the Walter bill, in favor of the States, the oil companies continue to pay the States.

Louisiana and Texas have made no agreements such as California made to have the revenues held for eventual distribution. They just continue to collect funds to which they are not entitled. Perhaps it should be stated that some areas off Louisiana require a court adjudication as to the exact location where Federal rights begin, but this is not the situation as to many valuable leased areas. There is, under these circumstances, no valid justification for further delay in the enactment of legislation for the management by the United States of its own property.

Ignoring all the relevant facts, the attorneys general's pamphlet says that equity and justice demand restoration of the property to the States. The truth is that restoration of the Federal Government's property, already depleted in value by hundreds of millions of dollars, to its rightful owner is much too long delayed through the dilatory tactics engaged in by the representatives of the three States which have profited so greatly through the wrongs perpetrated by them on the Federal Government.

THE WYOMING CASE

The pamphlet submits the action of Congress in passing legislation giving the State of Wyoming an oil-producing section of a township as a precedent for the proposed gift by the United States to the States of California, Louisiana, and Texas, at the expense of all the other States, of all of the Nation's oil and gas and other mineral deposits in the submerged lands of the Pacific Ocean and the Gulf of Mexico. The two matters are not comparable, but even if they were, the action by Congress in making a relatively small gift to the State of Wyoming is hardly any reason why the Federal Government should give away all of its mineral resources in the submerged lands of the oceans which touch its shores.

In the Wyoming case there was no question as to prior ownership by the Federal Government. Consistent with its long-continued policy, the Federal Government granted Wyoming, upon its admission to the Union, sections 16 and 36 of a proposed township, the property to be used for the support of public schools. The grant was subject to conditions, one of them being that the sections had to be officially surveyed, and another was that the sections granted should not be mineral in character.

It was also provided that if either of the sections did not pass to the local government, then the Territory should select other sections. The enabling act for Wyoming became law in 1890, but the official survey was not made and approved until 1916. An oil company, under a lease from the State, entered section 36 of township 58, Park County, in 1917, and drilled five oil wells. In 1915 these lands had been placed by Presidential order in a petroleum reserve.

From 1917 until 1944, a period of 27 years, the royalties amounted to but \$17,306. The Supreme Court held (*United States v. Wyoming*, 331 U. S. 440, 1947) that Wyoming did not obtain title from the United States to section 36. Thereafter, Congress made a grant of but one-eighth of the section to the State, and retained the other seven-eighths.

ACTION NOT A PRECEDENT

If it is now contended that Congress should not have done this for Wyoming, its action can hardly bind Congress to continue to grant unnecessary or unwise benefits to other States; nor can such a minor incident be fairly used to bolster a plea by three States that they should be given all the known and unknown mineral resources of the submerged lands of the marginal sea and beyond.

ATTORNEYS GENERAL'S CONTENTION NO. 7

"Nationalization of this property would result in less development of resources. The States and their local units of government are most closely concerned and better equipped to manage and develop the property, and State ownership has not interfered and would not interfere with the Federal powers of national defense, navigation, etc."

This is a contention born of desperation. "Nationalization" sounds like "socialization," and the inference is that the Federal Government has or will have plans to enter into the petroleum industry, and compete with or eliminate private enterprise in this field. The attorneys general's pamphlet, in order to drive this idea home, mentions "national ownership of coal in England, oil in Mexico, and general nationalization of minerals in Russia."

Of course, this is a most persuasive argument for giving all the Nation's mineral resources in the submerged lands of the sea to 3 States at the expense of the other 45 States. It applies with equal force to all of the mineral properties owned by the Federal Government on land—the properties, for instance, administered under the provisions of the Mineral Leasing Act.

Nobody has recommended, except in this pamphlet, that the Federal Government turn them over, without compensation, to the States. Nobody really has any idea that Congress should or would distribute and give away all the natural resources which happen to be owned by the Federal Government. Yet if the Nation's rights in the sea are to be surrendered, why not those on dry land? The same reasoning applies. One is just as much nationalized as the other.

However, the pamphlet does not hesitate to attempt to employ the term "nationalization" and a not too gentle hint of "socialization" in an effort to alarm the Members of Congress. The fact is, of course, that the United States, through the Interior, Defense, and Justice Departments, has been pleading with Congress year after year to authorize the Secretary of the Interior to make leases of the submerged lands of the adjacent seas to private developers, in exactly the same way that the States lease their mineral lands to private enterprise.

NO NATIONALIZATION

The suggestion that these oil companies produce less under Federal than under State ownership does no more credit to its authors than the other baseless contentions contained in the pamphlet. Boiled down, the argument really is that ownership or leasing of oil-producing properties by the Federal Government is nationalization, socialization, or whatever may sound sufficiently objectionable; but ownership and leasing by a State government is something else again, a horse of a different color, or an enterprise private instead of public in character, apparently given other names and characterizations solely for the purpose of attempting to justify the appropriation of Federal property without compensation.

This section of the pamphlet winds up with a rather self-righteous and hypocritical assurance that the Walter bill protects national defense powers by providing, in section 6, that "in time of war when necessary for the national defense, and the Congress or the President shall so prescribe, the United States shall have the first right of purchase at the prevailing market price, all or any portion of the said natural resources, or to acquire and use any portion of said lands by proceeding in accordance with due process of law and paying just compensation therefor."

This is the biggest joker of all, and the Walter bill is full of them. The United States is to be permitted in time of war to buy back its own oil at the prevailing market price, and to use its own lands after paying full compensation. This is truly a great concession.

It gives the United States, under the guise of protection, exactly nothing, as the United States is able to acquire State or even private property in time of war on such terms without the Walter bill. However, this provision, if enacted, would assure California, Louisiana, and Texas that they would collect royalties and other revenues on oil produced from the submerged lands of the adjacent seas, even in time of war when such oil is needed for the defense of those States as well as the entire Nation. This is the provision of which the pamphlet prepared by the State attorneys general boasts—the fair provision in the bill passed by the House. All that this fair provision would do is give California, Louisiana, and Texas profits from the Federal Government's oil, even during the period when American soldiers, sailors, and marines are giving their lives to protect them from foreign enemies.

ATTORNEYS GENERAL'S CONTENTION NO. 8

"H. R. 4484 by Walter confirms State ownership of only those lands lying within original State boundaries. Nine-tenths of the Continental Shelf lies outside of eight original State boundaries and is vested in the Federal Government."

This is another joker. It is another attempt to ignore the law of the land and the Supreme Court of the United States, which has said four times that there

is no State ownership of submerged lands in the marginal sea. This bill would "confirm" State ownership anyhow. It would, as stated, translate boundary into ownership, thus mixing up two entirely different things. The pamphlet says that nine-tenths of the Continental Shelf lies outside of original State boundaries. But the pamphlet fails to state that there is virtually no Continental Shelf outside of the boundary of California, and that H. R. 4484 would in effect give California forever all of the natural resources of the submerged lands of the sea off its shores.

It would give Texas, as its original boundary, 10½ miles of the submerged lands of the Gulf of Mexico by the simple device of translating boundary into ownership, in the teeth of four decisions by the Supreme Court, and in clear violation of accepted rules from time immemorial for determining title. As pointed out, the boundary of a State does not give it ownership of all dry land within that boundary, and there is no known rule of law under which boundary gives a State ownership of the submerged lands of the sea.

CONFUSION AS TO BOUNDARIES

The Walter bill would extend the inland water rule to the bed of the ocean. And the use of the phrase, "original boundaries," already discussed in this letter, would result in inequalities among the States, since Texas asserts that it came into the Union with a 10½-mile seaward boundary. In addition, State boundaries contemplated by the Walter bill are the original boundaries "or as heretofore or hereafter approved by Congress," so that original boundaries may have become or may become something entirely different.

Louisiana now claims a boundary of 27 miles into the Gulf of Mexico, and Texas all the way to the edge of the Continental Shelf. There are even signs that Louisiana also now claims that it came into the Union in 1812 with a 10½-mile boundary, but that significant discovery seems first to have been made in the 1940's after oil was discovered outside of the 3-mile belt.

Notwithstanding this, the attorneys general's pamphlet says that nine-tenths of the Continental Shelf lies outside of original State boundaries, and is vested by the bill in the Federal Government. But this bill undertakes to make a gift to the adjacent State of 37½ percent of all the revenues from the mineral resources of the submerged lands of the Continental Shelf beyond the State boundaries.

In other words, the effect of the bill is to give California all the resources of the submerged lands of the sea, and to give Louisiana and Texas all the resources within their boundaries, whatever they may be, and 37½ percent of all the resources of the submerged lands of the sea, outside even of any boundaries claimed by them. Inasmuch as there is no vestige of any State right whatever in such areas, the proposal to give these States 37½ percent of the mineral resources of the United States beyond State boundaries, at the same time that the States demand all the revenues from the mineral resources of submerged lands of the marginal sea, seems rather a queer way of vesting resources in the Federal Government.

AUTHORITY BASED ON INTERNATIONAL RECOGNITION

The fact is that no legislation is required to vest natural resources of any of these areas in the Federal Government. The submerged lands of the marginal sea are already vested by international custom and usage and by Federal claims, confirmed by the Supreme Court of the United States, and the resources of the Continental Shelf have been claimed by the President of the United States in the Executive proclamation of September 28, 1945 (10 Federal Register, 12303).

The only purpose of the Walter bill in attempting to vest anything in the Federal Government is to take it away—all of the resources of the submerged lands of the marginal sea, and 37½ percent of the resources of the submerged lands of the Continental Shelf beyond State boundaries—and give it to California, Louisiana, and Texas, as the case may be. The pamphlet contains the information that the idea of a 37½ percent payment to the States came from the Mineral Leasing Act under which the States receive 37½ percent of revenues from the Federal Government's oil-producing lands within their borders. There probably were good reasons for this provision, none of which seems applicable to the submerged lands of the Continental Shelf, and only to a very limited extent to the marginal sea.

In the first place, if it were not for Federal Government ownership of land within the States, those States would collect taxes and perhaps other revenues not available under public ownership. Again, the State Government may have

responsibilities through the normal exercise of its police powers which all property owners, except public and other exempt owners, are required to support through taxation. The 37½ percent paid to the State under the Mineral Leasing Act may be regarded as in lieu of taxes and other consideration.

AMOUNT OF PAYMENTS

So, as to the submerged lands of the marginal sea, there may be some justification, on the ground of police responsibilities, for agreeing to a payment by the Federal Government of something, but there would not seem to be any circumstances sufficient to justify a comparison with the percentages of payments under the Mineral Leasing Act. And, as to the submerged lands of the Continental Shelf, where any State activities are purely voluntary, the suggestion that the Federal Government should pay Louisiana and Texas a substantial percentage of the revenues received from the development of natural resources claimed by the Federal Government seems, under present circumstances, rather farfetched.

ATTORNEYS GENERAL'S CONTENTION NO. 9

"Congress which has final power to act in this controversy, has been ignored and circumvented by executive officials in the attempt seizure of this property from the States."

The truth is, of course, that the three States concerned—California, Louisiana, and Texas—have not only ignored, as much as they dared, and circumvented Congress, but also the Supreme Court of the United States and the executive branch of the Federal Government. If such a comparison is to be made, I think it is fair to say that the palm must clearly be awarded to these States. They have employed delays, baseless arguments, misstatements, and pressure to keep the Federal Government from proceeding to develop its mineral resources for the benefit of all the people of this Nation.

Congress does have the power to act, but the effort of the States has been concentrated on the attempt to induce Congress to act by giving away the Nations' mineral resources, worth billions of dollars. As far back as 1937, the Senate of the United States unanimously declared that these resources belong to the United States. World War II caused a delay in steps to have the Federal Government's claims adjudicated, and in the meantime the States profited by continuing to seize the Federal Government's minerals without the consent of Congress or any other branch of the Federal Government.

When suit was brought against California, the State contested the right of the Attorney General to file it. It did its best to prevent an adjudication. After the California case was decided, the Government went to Congress with a bill, prepared by the attorneys of the Justice, Interior, and Defense Departments, asking Congress to authorize the Secretary of the Interior to issue leases, so as to provide for the development and use of the Nation's vast mineral resources in the bed of the sea.

Year after year, session after session, such legislation has been urged upon Congress by various Attorneys General, Secretaries of the Interior, Secretaries of Defense and by other Government officials. The needed legislation by Congress granting permission to the Federal Government to use its own property is still withheld. The three States are responsible for the delay. They have blocked all the legislation submitted to Congress by the executive officials.

They even obtained the passage, before the California case was decided, of a bill quitclaiming the Federal resources to them, but the bill was vetoed by President Truman, and the situation saved for further and proper consideration. The States have even prevented the passage by Congress of the bill to eliminate their baseless contention that the Federal Government will claim proprietary rights, through national sovereignty, in the submerged beds of inland waters. And they still continue to advance contentions which have been indisputably refuted again and again.

SEIZURE BY THREE STATES

There never has been, as the pamphlet charges, any seizure of State property by Federal officials. The contrary is true, and it cannot honestly be denied, now that the Supreme Court has three times spoken. California, Louisiana, and Texas have, without the consent of Congress, seized Federal property. They have, through their lessees and assignees, taken property worth hundreds of millions of dollars, for which the Federal Government will never be reimbursed.

Revenues from the resources in the marginal sea off California are, under written stipulations, being accumulated in special funds, accounting from June 23, 1947, but there is no accounting for such funds prior to that date. Louisiana and Texas are under court orders to account for revenues received after June 5, 1950, but there is, as stated, to be no accounting prior to that date. In view of the history of the controversy, and of the intentional seizure of Federal Government resources, even after the date of the California decision, by Louisiana and Texas, contention No. 9 should not have the slightest appeal to the Members of Congress, and to all those who have any inkling of what has transpired.

ATTORNEYS GENERAL'S CONTENTION NO. 10

"The principles of the tidelands decisions, if not erased from the law of the land by act of Congress, could lead to nationalization of private lands as well as State lands without compensation."

This is but an elaboration of the nonsensical ideas expressed by contention No. 7, carried into further absurdities. Public ownership of land, whether dry or submerged, and its resources, is apparently unobjectionable if such ownership is in a State government, but such public ownership, if in the Federal Government, is nationalization or socialization, or something evil forbidden by the Constitution, or which should be forbidden by the Constitution or by Congress and by whatever agency can turn over the Nation's oil resources in the submerged land of the sea of California, Louisiana, and Texas.

And, since the attorneys general's pamphlet expresses no constitutional or other legal objection to public ownership by the Federal Government of oil-producing properties on dry land in various States, as has been the case since the formation of the Union, it follows that the sinister consequences depicted in the pamphlet result only where the Federal land is submerged by the sea. In some manner, unfortunately not elucidated in the pamphlet so we may never know how the phenomenon occurs, dangers, or the possibility of dangers, to our form of government arise from the bed of the sea, but never from dry land.

AMERICAN BAR ASSOCIATION

It is not only the Association of Attorneys General which is frightened by this situation. "It is," so the pamphlet says, "such organizations as the American Bar Association and the American Title Association" that are startled. I have been a member of the American Bar Association for many years and I am not frightened or startled by any circumstance of long-approved Federal ownership of anything, either by land or by sea. And there are many more like me. I know, of course, that the house of delegates of the American Bar Association adopted a resolution February 23, 1948, advocating the passage by Congress of legislation quitclaiming the submerged lands of the marginal sea. I suspect that at least some of the members of the committee responsible for drafting the resolution may have had either the special interests of their own States at heart, or may have been connected in some way with oil interests. One of the members of the committee came from Texas and another from California.

I regret that the American Bar Association should undertake to pass resolutions on such a subject matter. If anyone is frightened or startled, it should be over the use of such an organization as the American Bar Association to champion the cause of 3 States against the best interests of all the people of the other 45 States.

INTERNATIONAL LAW AND THE TIDELANDS DECISIONS

Perhaps, it also should be said that Congress may have more difficulty in erasing the principles of the tidelands decisions from the law of the land than the Association of Attorneys General knows about, or has ever considered. For those principles are not ours alone. They are the principles of law applying to all sovereign nations. They are the principles under which our ships traverse the seas in every part of the globe, carrying our peoples as well as articles of commerce over the waters adjacent to other countries and continents. We could no more recognize expansions into the seas by political subdivisions of other sovereignties than we could expect to obtain the acquiescence of other nations to invasions by Louisiana and Texas beyond the areas claimed by the United States as being subject to the exercise of full sovereign powers. The erasures so lightly and blithely advocated in the pamphlet would be highly detrimental to this Nation abroad, as well as at home.

ATTORNEYS GENERAL'S CONTENTION NO. 11

"The only oil lobby involved in this legislation is opposing State ownership in order to obtain cheap Federal leases. The idea of devoting revenues from these lands to Federal aid to education was originated by this lobby for use against State ownership legislation."

This contention has nothing whatever to do with the merits of the controversy. It conceals the real issue, which is simply whether the people of the Nation shall have the benefits of their resources in the submerged lands of the sea, or whether the oil and gas reserves there shall be turned over to California, Louisiana, and Texas forever. One thing is certain. The Federal Government has no "oil" or any other kind of lobby. It necessarily has been confined to statements and arguments made by officials, most of them in court or before committees of Congress.

FEDERAL GOVERNMENT HAS NO LOBBY

This may be a proper opportunity to emphasize the fact that interests of the United States in this important controversy have been handled, for the most part, by three or four attorneys in the Department of Justice, and by perhaps a like number in the Department of the Interior, working on these problems in connection with their other duties as Government employees. Those in the Department of Justice have been successful in the difficult and complicated litigation brought in the Supreme Court against California, Louisiana, and Texas, in the course of which they were confronted not only with the large array of leading lawyers of the various States, but also with the best talent in the field of international law that could be retained all over the world. The California case still goes on, and the questions submitted to the master are yet to be determined.

The Department of the Interior has participated in the drafting of legislation; handles the various matters incident to the stipulations with California, and takes the steps necessary to safeguard the interests of the United States in the areas involved until Congress decides to act. And these same few persons, time after time, have appeared before committees of the Senate and House to resist the efforts to strip the United States of its mineral resources in the submerged lands of the sea, and to advocate the passage of legislation providing for the proper development of the properties.

The results to date could not have been attained without the encouragement given at all times by President Truman and his understanding cooperation with those who have been carrying out his policies; nor could the work have been carried on without the active participation and support of Attorney General J. Howard McGrath and Secretary of the Interior Oscar Chapman, and their predecessors in office. Both of these officials have also interrupted their other duties to appear before committees of the Congress and to testify at length on the subject.

STATES LOBBIES

On the other hand, the States, in addition to official appearances before the courts and committees of Congress, have operated effective lobbies. The Association of Attorneys General maintains offices in Washington from which Congress has been flooded with contentions and arguments of the same misleading character as those contained in the pamphlet under discussion. Those offices are now and have been for years in charge of a former attorney general for the State of Nebraska, who has spearheaded opposition to the efforts by Federal officials to obtain congressional permission for development by the United States of its own properties.

The imposing list of organizations, beginning with the Council of State Governments and ending with the National Institute of Municipal Law Officers, appearing in the attorneys general's pamphlet as sponsors of State ownership, is a tribute—although a regrettable one—to the effectiveness of the activities carried on by the States, those with real interests at stake as well as the greater number which have been beguiled into opposition to their own best interests.

MINERAL LEASING HIT APPLICANTS

The pamphlet says that the oil interests which are not neutral and are opposed to State ownership are those who are applicants for Federal leases, and who hope to benefit by Federal management of the submerged lands. These applicants filed under the Mineral Leasing Act, and their applications were denied.

The Attorney General has ruled that the Mineral Leasing Act does not apply to the submerged lands of the sea. So has the Solicitor of the Interior Department.

The bills supported by the Federal officials are designed to confirm and ratify the leases issued by the States, and to vest no rights whatever in the applicants under the Mineral Leasing Act. That has been made clear in all of the hearings held by Congressional Committees. The Federal Government has been beset by rival claimants, the States on one hand, and the applicants for Federal leases under the Mineral Leasing Act on the other. It is our position that none of them has any valid claims. The property belongs to the United States.

The Federal officials have recommended to Congress that existing leases made by the States be confirmed and ratified in the hands of the Federal Government, and that the Federal Government be authorized to make leases of areas not yet under contract. These leases would go to the highest bidders. Federal officials are not responsible for the desires, hopes or activities of private applicants, any more than they are for the activities of the States. The applicants under the Mineral Leasing Act have brought suit to enforce their claims. The Federal officials have opposed, and will continue to oppose, those suits.

SECRETARY ICKES AND THE SUITS

The Attorneys General's pamphlet alleges that it was the Federal lease applicants who first persuaded then Secretary of the Interior Harold L. Ickes to reverse his previously held opinion on State ownership. This allegation, even if it were true, is hardly relevant. But, if Mr. Ickes' actions or attitudes or beliefs are of such surpassing interest to the States, the fact is, as he has stated over and over again, that he is the one who denied the applications made under the Mineral Leasing Act—the very applications which seem to enrage the Attorneys General so much.

It is true that the denial was based on the theory of State ownership, but when Mr. Ickes began to have doubts on that question, he urged the President and the Attorney General to have the matter determined by the courts. It took a long time. World War II had to be fought and won before the Federal Government was in a position to handle such an important domestic question. The 3 States involved in the seizure of Federal property profited by the delay. Once the decision was made to sue California, the Department of Justice took over. It has handled all the litigation against the 3 States in the Supreme Court.

Mr. Ickes' doubts have been resolved by the decisions, which embody the law of the land. In this matter he did his full duty, and the States have no basis whatever for their irrelevant complaints. The pat answer to the awful charge that Mr. Ickes changed his mind is, "So what?"

FEDERAL AID TO EDUCATION

This subject is given a special caption in the Attorneys General's pamphlet, so it is treated likewise here. It is stated that Mr. Ickes, at the request of former Senator Wheeler, attorney for Federal lease applicants, appeared before congressional committees and presented arguments in their behalf. The pamphlet says it is significant that they originated the argument that revenues from the mineral resources of the submerged lands of the sea should be used in the States for Federal aid to education.

I must confess inability to understand just what bearing this situation has, even if true, on the seizure of Federal assets by three States. But I seem to remember that the proposal to use Federal revenues from this source for Federal aid to education was first expressed by Mr. Ickes alone. He favored such a plan in many of his public statements, oral and written, and it was to be expected that he would express them before congressional committees when he had the opportunity. This is a matter for Congress to decide. It is hardly the business of those State officials who are attempting to convince Congress to make an absolute gift of the Federal mineral resources in the submerged lands of the marginal sea to three States at the expense and to the detriment of the other 45 States.

SENATOR HILL'S AMENDMENT

But the idea of using such revenues for Federal aid seems to have won many supporters. There is pending in your committee an amendment to your joint resolution, Senate Joint Resolution 20, for the use of the revenues from the minerals in the submerged lands of the sea for Federal aid to education. The

amendment was offered by Senator Lister Hill, of Alabama, on behalf of himself and Senators Douglas of Illinois, Morse of Oregon, Benton of Connecticut, Tobey of New Hampshire, Neely of West Virginia, Sparkman of Alabama, Kefauver of Tennessee, Chavez of New Mexico, Humphrey of Minnesota, and Hennings of Missouri. These 11 Senators do not represent any lobby of oil interests or Federal lease applicants. They are Members of the Senate of the United States, and it is their duty to help determine the disposition of all Federal funds.

STATE REVENUES FROM SUBMERGED LANDS

The pamphlet makes the misleading statement that all submerged-lands revenues in Texas have been devoted to public education for more than 30 years. What the pamphlet does not say, and what it attempts to conceal, is that prior to the decision in the California case, there were no revenues obtained by Texas, or only a negligible amount, from the oil resources of the submerged lands of the marginal sea. Texas revenues from inland submerged lands are not affected, and cannot be affected. They will, it is assumed, continue to be used for public education.

After the California decision by the Supreme Court, a case in which Texas participated, Texas hurried to issue leases in the marginal sea, and received some \$8,300,000 in bonus payments. It thereafter collected rentals from the lessees. But there is only one oil well in operation in the marginal sea off Texas, and that well drains a pool tapped by other wells on land, where the Federal Government has no claim.

The pamphlet says that Texas, Louisiana, and California have received \$77,292,000 from oil and gas leases and royalties, but the pamphlet fails to state how much of this came from State-owned property on dry land, where the Federal Government has no claim, and how much of it represents revenues from mineral resources in Federal submerged lands of the sea seized by these three States in defiance of the rights of the United States.

SUPPORTERS OF FEDERAL CONTROL

The pamphlet goes on to suggest that the Federal Government should grant all of its real property in the country to the respective States, so that the States and not the Federal Government, would receive all revenues from such lands. The pamphlet says that such a measure "would be opposed by Mr. Ickes and other advocates of Federal control (of the marginal sea?) because their primary interest is the centralization of property and power in the national sovereign rather than the support of public education."

The advocates of Federal control of its mineral resources in the submerged lands of the sea, which have never belonged to any State, include you and Senator Anderson, of New Mexico—cosponsors of Senate Joint Resolution 20—the 11 Senators who offered the Federal-aid-to-education amendment, and other Senators who have not yet voted on the Walter bill on the floor of the Senate. They include the 109 Members of the House who voted against the Walter bill, and others who were absent but paired against it. They include some of the great newspapers of the Nation, and other publications whose editors have studied the subject; and they include men and women in all walks of life all over the Nation, who oppose the seizure of Federal assets by 3 States at the expense and to the detriment of the citizens of the other 45 States, and whose opposition does not stem from any interest, primary or otherwise, in the centralization of property and power in the Federal Government.

THE NECESSITY FOR SENATE JOINT RESOLUTION 20

California, Louisiana, and Texas, by dilatory tactics, and by pressing for legislation to give them forever the mineral resources of the submerged lands of the sea belonging to the people of the Nation, have blocked and frustrated the efforts by executive officials to obtain authority from Congress for the use by the Federal Government of its property.

Further exploration and development of oil resources in the sea have been halted by the refusal of the States to acquiesce in the law of the land as pronounced by the Supreme Court of the United States at least four times.

World conditions have made immediate and additional development of oil resources vital. The successful defense of the Nation from foreign enemies may depend upon it. Three States have been carrying on their campaign to take

these resources for years. Hundreds of millions of dollars of value of these resources have already been taken without Federal consent. Three States have profited at the expense of the other 45 States.

It must be evident to all who study the situation that the effort of the three States to gain possession of Federal mineral resources in the open sea has reached its climax and has begun to weaken. The recent vote in the House of Representatives shows this conclusively.

CONGRESSIONAL VIEWS CHANGING

When the House, on September 20, 1945, passed the first quitclaim bill (H. Res. 225, 79th Cong., subsequently vetoed) only 11 Members of the House voted (without rollcall) against it. The second bill passed the House on April 30, 1948 (H. R. 5992, 80th Cong.; no vote by Senate), and the opponents of the States legislation numbered 29. On July 30, 1951, the Walter bill was passed by the House, and the number of those in opposition increased to 109, with 17 more paired against the legislation. The truth about this situation is winning its way through the fog of misleading propaganda.

The views of the executive officials as to the proper permanent legislation which Congress should pass are contained in S. 923, introduced in the Eighty-first Congress. This bill was drafted by attorneys in the Justice, Interior, and Defense Departments.

Senate Joint Resolution 20, drafted by and introduced by you for yourself and Senator Anderson, contains interim legislation which the executive officials have approved, although it embodies various concessions in favor of the States not previously believed advisable.

Approval of your proposal, Senate Joint Resolution 20, was given by executive officials because of the imperative necessity for immediate action to meet a world crisis, and to prepare this Nation to meet any emergency. It seems the best solution under present circumstances.

Sincerely yours,

PHILIP B. PERLMAN.
Solicitor General.

6. VETO MESSAGE FROM THE PRESIDENT OF THE UNITED STATES, MAY 29, 1952

MESSAGE FROM THE PRESIDENT OF THE UNITED STATES, RETURNING WITHOUT APPROVAL THE JOINT RESOLUTION (S. J. RES. 20) ENTITLED "A JOINT RESOLUTION TO CONFIRM AND ESTABLISH THE TITLES OF THE STATES TO LANDS BENEATH NAVIGABLE WATERS WITHIN STATE BOUNDARIES AND TO THE NATURAL RESOURCES WITHIN SUCH LANDS AND WATERS, AND TO PROVIDE FOR THE USE AND CONTROL OF SAID LANDS AND RESOURCES"

To the Senate of the United States:

I return herewith, without my approval, Senate Joint Resolution 20, entitled "Joint resolution to confirm and establish the titles of the States to lands beneath navigable waters within State boundaries and to the natural resources within such lands and waters, and to provide for the use and control of said lands and resources."

This joint resolution deals with a matter which is of great importance to every person in the United States. I have studied it very carefully, and have taken into account the views and interests of those who support this legislation, as well as of those who are opposed to it.

I have concluded that I cannot approve this joint resolution because it would turn over to certain States, as a free gift, very valuable lands and mineral resources of the United States as a whole—that is, of all the people of the country. I do not believe such an action would be in the national interest, and I do not see how any President could fail to oppose it.

The lands and mineral resources in question lie under the open sea off the Pacific, the gulf, and the Atlantic coasts of our country. Contrary to what has been asserted, this resolution would have no effect whatever on the status of the lands which lie under navigable rivers, lakes, harbors, bays, sounds, and other navigable bodies of water that are inland waters. Neither would it have any effect on the tidelands—that is, the lands along the seashore which are covered at high tide and exposed at low tide. All such lands have long been held by the courts to belong to the States or their grantees, and this resolution would make no change in the situation.

The only lands which would be affected by this resolution extend under the open ocean for some miles seaward from the low-tide mark or from the mouths of harbors, sounds, and other inland waters. What this resolution would do would be to give these lands to the States which happen to border on the ocean.

It has been contended that the joint resolution merely restores to the States property which they owned prior to the 1947 decision of the Supreme Court in the case of *United States v. California*. This argument is entirely erroneous.

Until recent years, little or no attention was paid to the question of who owned these lands under the open sea, since they were for all practical purposes without value. But, about 20 years ago, oil began to be produced in substantial quantities from the submerged lands off the coast of California. Then, for the first time, the legal question of ownership became important and was given serious consideration.

There was uncertainty for a number of years over whether these were State or Federal lands. Even so careful and zealous a guardian of the public interest as the late Secretary of the Interior, Harold Ickes, at first assumed that the undersea lands were owned by the States. When he subsequently made studies of the matter, however, he concluded that the United States had interests in these lands which should be determined by the courts.

Whatever may have been the opinion of various people in the past, the legal controversy has now been finally resolved in the only way such legal questions can be resolved under our Constitution—that is by the courts, in this case by the Supreme Court. It has been resolved by that Court not once but three times. First in 1947, in the case of California, then twice in 1950, in the cases of Louisiana and Texas, the Court held that the submerged lands and mineral resources underlying the open waters of the ocean off the coast of the United States are lands and resources of the United States, and that the various coastal States, as such, do not have and have never had any title to or property interest in such lands or resources. Texas, of course, before it became a State and while it was an independent republic, had whatever rights then existed in the submerged lands off its coast, but the Supreme Court ruled that any such rights were transferred to the United States under the annexation agreement when Texas entered the Union.

Consequently, the law has now been determined, and it applies uniformly to all coastal States. Lands under the open sea are not owned by the coastal States, but are lands belonging to the United States—that is, they are lands of all the people of the country.

Accordingly, the real question presented by this joint resolution is not who owns the lands in question. That question was settled by the Supreme Court. The real question this resolution raises is: Should the people of the country give an asset belonging to all of them to the States which happen to border on the ocean? This resolution would do just that. Despite all the irrelevant contentions which have been made in favor of this resolution, its real purpose and its sole effect would be to give to a few States undersea lands and mineral resources which belong to the entire Nation.

I cannot agree that this would be a wise or proper way to dispose of these lands and mineral resources of the United States. Instead, I think the resources in these lands under the sea should be developed and used for the benefit of all the people of the country, including those who live in the coastal States.

I would not agree to any proposal that would deprive the people of the coastal States of anything that rightfully belongs to them. By the same token, I cannot be faithless to the duty I have to protect the rights of the people of the other States of the Union.

The resources in the lands under the marginal sea are enormously valuable. About 235 million barrels of oil have already been recovered from the submerged lands affected by this joint resolution—nearly all of it from lands off the coasts of California and Louisiana. The oil fields already discovered in these lands are estimated to hold at least 278 million more barrels of oil. Moreover, it is estimated that more than 2½ billion additional barrels of oil may be discovered in the submerged lands that would be given away off the coasts of California, Texas, and Louisiana alone. In addition to oil and gas, it is altogether possible that other mineral resources of great value will be discovered and developed beneath the ocean bed.

The figures I have cited relate only to the submerged lands which are claimed to be covered by this resolution—that is, the marginal belt of land which the sponsors of the resolution say extends seaward 3 marine leagues (10½ land

miles) from the low-tide mark off the coast of Texas and the west coast of Florida, and 3 nautical miles ($3\frac{1}{2}$ land miles) off all other coastal areas.

The Continental Shelf, which extends in some areas 150 miles or more off the coast of our country, contains additional amounts of oil and other minerals of huge value. One oil well, for example, has already been drilled and is producing about 22 miles off the coast of Louisiana.

While this resolution does not specifically purport to convey lands and resources of the Continental Shelf beyond a marginal belt, the resolution does open the door for the coastal States to come back and assert claims for the mineral resources of "the Continental Shelf lying seaward and outside of" this area. The intent of the coastal States in this regard has been made clear by actions of the State Legislature of Louisiana, which has enacted legislation claiming to extend the State's boundary 27 miles into the Gulf of Mexico, and of the State Legislature of Texas, which has enacted legislation claiming to extend that State's boundary to the outer limit of the Continental Shelf. Such an action would extend Texas' boundary as much as 130 miles into the Gulf of Mexico.

I see no good reason for the Federal Government to make an outright gift, for the benefit of a few coastal States, of property interests worth billions of dollars—property interests which belong to 155 million people. The vast quantities of oil and gas in the submerged ocean lands belong to the people of all the States. They represent part of a priceless national heritage. This national wealth, like other lands owned by the United States, is held in trust for every citizen of the United States. It should be used for the welfare and security of the Nation as a whole. Its future revenues should be applied to relieve the tax burdens of the people of all the States and not of just a few States.

For these reasons, I cannot concur in donating lands under the open sea to the coastal States, as this resolution would do.

I should like to dispose of some of the arguments which have been made in support of this resolution—arguments which seem to me to be wholly fallacious.

It has been claimed that such legislation as this is necessary to protect the rights of all the States in the lands beneath their navigable inland waters. It has been argued that the decisions of the Supreme Court in the California, Louisiana, and Texas cases have somehow cast doubt on the status of lands under these inland waters. There is no truth in this at all. Nothing in these cases raises the slightest question about the ownership of lands beneath inland waters. A long and unbroken line of Supreme Court decisions, extending back for more than 100 years, holds unequivocally that the States or their grantees own the lands beneath the navigable inland waters within the State boundaries.

Long Island Sound, for example, was determined by the courts to be an inland water many years ago. So were Mobile Bay, and Mississippi Sound, and San Francisco Bay, and Puget Sound. Chesapeake and Delaware Bays and New York and Boston Harbors, are inland waters. The Federal Government neither has nor asserts any right or interest in the lands and resources underlying these or other navigable inland waters within State boundaries. Neither does it have or assert any right or interest in the tidelands, the lands lying between the high- and low-water marks of the tides. All this has been settled conclusively by the courts.

If the Congress wishes to enact legislation confirming the States in the ownership of what is already theirs—that is, the lands and resources under navigable inland waters and the tidelands—I shall, of course, be glad to approve it. But such legislation is completely unnecessary, and bears no relation whatever to the question of what should be done with lands which the States do not now own—that is, the lands under the open sea.

The proponents of this legislation have also asserted that under the Supreme Court rulings the Federal Government may interfere with the rights of the States to control the taking, conservation, and development of fish, shrimp, kelp, and other marine animal or plant life. It is also asserted that the Federal Government may interfere with the rights to filled-in or reclaimed lands, or the rights relating to docks, piers, breakwaters, or other structures built into or over the ocean. I can say simply and categorically that the executive branch of the Government has no intention whatever of undertaking any such thing. If the Congress finds any cause for apprehension in this regard, it can easily settle the matter by appropriate legislation which I would be very happy to approve. But these assertions provide no excuse for passing legislation to give to a few States—at the expense of the people of all the others—rights they do not now have to very valuable lands and minerals beneath the open sea.

I have considered carefully the arguments that have been advanced to the general effect that, regardless of the decisions of the Supreme Court, the coastal

State ought to own the lands beneath the marginal sea. These arguments have been varied and ingenious. I cannot review all of them here. Suffice it to say I have found none of these arguments to be persuasive.

The fact is that the Federal Government, and not the States, obtained the rights to these lands by the action of the Executive, beginning with a letter from Secretary of State Thomas Jefferson in 1793, when he asserted jurisdiction, on behalf of the United States as against all other nations, over the 3-mile belt of ocean seaward of the low-tide mark. Neither then nor at any other time did the Federal Government relinquish any authority over this belt. The rights to this ocean belt, in other words, are and always have been Federal rights, maintained under international law by the National Government on behalf of all the people of the country.

It has been strongly urged upon me that the case of Texas differs from that of the other coastal States, and that special considerations entitle Texas to submerged lands lying off its coast. I recognize that the situation relating to Texas is unique. Texas was an independent Republic for 9 years before she was admitted to the Union, in 1845, "on an equal footing with the existing States." During those 9 years it had whatever rights then existed in submerged lands of the marginal sea.

Texas entered the Union pursuant to a joint resolution of annexation, enacted by the Congress. Some of the provisions of the annexation resolution are not clear in their meaning as they apply to the present question. Thus, the resolution granted to Texas "all the vacant and unappropriated lands lying within its limits," but at the same time it also required Texas to cede to the United States "all * * * ports and harbors * * * and all other property and means pertaining to the public defense."

The legal question relating to ownership of submerged lands off the coast of Texas may have been different and more difficult than the legal question with respect to California and Louisiana. But the Supreme Court decided that when Texas entered the Union on an equal footing with the other States, thereupon ceasing to be an independent nation, it transferred national external sovereignty to the United States and relinquished any claims it may have had to the lands beneath the sea.

Not only has the Supreme Court ruled upon the difficult legal question, but in enacting Senate Joint Resolution 20 the Congress decided that all the coastal States should be treated in the same manner as Texas. In view of this, it obviously is impossible for me to consider the resolution exclusively from the standpoint of the unique situation relating to Texas.

As to those parts of the Continental Shelf that lie beyond the marginal belt that would be transferred by Senate Joint Resolution 20, the States have no grounds for asserting claims. There can be no claim that these lands lay within the boundaries of any States at the time of their admission to the Union. Neither can there be any claim of an historical understanding that these were State lands. More important, the Nation's rights in those lands, as in the case of the marginal belt, are national rights based upon action taken by the Federal Government.

In 1945 the President issued a proclamation declaring that the natural resources of the subsoil and sea bed of the Continental Shelf beneath the high seas appertain to the United States, and are subject to its jurisdiction and control. This proclamation asserts the interests of the United States in the land and resources under the high seas well beyond the 3-mile belt of territorial sea established in Jefferson's time. This jurisdiction was, of course, asserted on behalf of the United States as a whole, and not just on behalf of the coastal States.

In view of the controversy of the last 15 years or so over the disposition of the lands underlying the marginal sea belt, and the more recent problem relating to rights in the remainder of the Continental Shelf, I should like in this message to indicate the outlines of what would appear to me to be a reasonable solution.

First, it is of great importance that the exploration of the submerged lands—both in the marginal sea belt and the rest of the Continental Shelf—for oil and gas fields should go ahead rapidly, and any fields discovered should be developed in an orderly fashion which will provide adequate recognition for the needs of national defense.

Senate Joint Resolution 20, as originally introduced by Senators O'Mahoney and Anderson, and as reported from the Senate Committee on Interior and Insular Affairs, would have filled this need on an interim basis, pending further study by the Congress, by providing for Federal leases to private parties for exploration and development of the oil and gas deposits in the undersea lands.

But, as it was amended and passed, the resolution would only make possible the development under State control of the resources of the marginal belt; it makes no provision whatever for developing the resources of the rest of the Continental Shelf.

I wish to call special attention to the need for considering the national-defense aspects of this matter—which the present bill disregards completely.

In recent years we have changed from an oil-exporting to an oil-importing nation. We are rapidly using up our known reserves of oil; we are uncertain how much remains to be found; and we face a growing dependence upon imports from other parts of the world. We need, therefore, to encourage exploration for more oil within lands subject to United States jurisdiction, and to conserve most carefully, against any emergency, a portion of our national oil reserves.

Senate Joint Resolution 20, as it reached me, does not provide at all for the national defense interest in the oil under the marginal sea. Indeed, the latter half of the ambiguous and contradictory terms of section 6 (a) of the resolution appears to bar the United States from exercising any control, for national defense purposes or otherwise, over the natural resources under the sea. While section 6 (b) gives the Government, in time of war, the right of first refusal to purchase oil, and the right to acquire land through condemnation proceedings, these provisions avoid completely the main problem, which is to make sure, before any war comes, that our oil resources are not dissipated.

In contrast to these provisions, Senate Joint Resolution 20, as originally introduced by Senators O'Mahoney and Anderson, provided in section 7 (a) that the President could, from time to time, withdraw from disposition any unleased lands of the Continental Shelf and reserve them in the interest of national security. In passing the resolution now before me, however, the Congress omitted entirely this or any other similar provision. It is not too much to say that in passing this legislation the Congress proposes to surrender priceless opportunities for conservation and other safeguards necessary for national security. I regard this as extremely unfortunate, and it is for this reason especially that the Department of Defense has strongly urged me to withhold approval from Senate Joint Resolution 20.

I urge the Congress to enact, in place of the resolution before me, legislation which will provide for renewed exploration and prudent development of the oil and gas fields under the open sea, on a basis that will adequately protect the national defense interests of the Nation.

Second, the Congress should provide for the disposition of the revenues obtained from oil and gas leases on the undersea lands. Senate Joint Resolution 20, as introduced by Senators O'Mahoney and Anderson, would have granted the adjacent coastal States 37½ percent of the revenues from submerged lands of the marginal sea. I would have no objection to such a provision, which is similar to existing provisions under which the States receive 37½ percent of the revenues from the Federal Government's oil-producing public lands within their borders.

Another suggestion, which was offered by Senator Hill on behalf of himself and 18 other Senators, was that the revenues from the undersea lands, other than the portion to be paid to the adjacent coastal States under the O'Mahoney-Anderson resolution, should be used to aid education throughout the Nation. When you consider how much good such a provision would do for school-children throughout the Nation, it gives particular emphasis to the necessity for preserving these great assets for the benefit of all the people of the country rather than giving them to a few of the States.

Third, I believe any legislation dealing with the undersea lands should protect the equitable interests of those now holding State-issued leases on those lands. The Government certainly should not impair bona fide investments which have been made in the undersea lands, and the legislation should make this clear. Here again, Senate Joint Resolution 20, as introduced by Senators O'Mahoney and Anderson, provided a sensible approach.

But unfortunately, Senate Joint Resolution 20 was converted on the floor of the Senate into legislation which makes a free gift of immensely valuable resources, which belong to the entire Nation, to the States which happen to be located nearest to them. For the reasons stated above, I find neither wisdom nor necessity in such a course, and I am compelled to return the joint resolution without my approval.

HARRY S. TRUMAN.

THE WHITE HOUSE, May 29, 1952.

7. EXECUTIVE ORDER SETTING ASIDE NAVAL PETROLEUM RESERVE, JANUARY 16, 1953

EXECUTIVE ORDER 10426

SETTING ASIDE SUBMERGED LANDS OF THE CONTINENTAL SHELF AS A NAVAL PETROLEUM RESERVE

By virtue of the authority vested in me as President of the United States, it is ordered as follows:

SECTION 1. (a) Subject to valid existing rights, if any, and to the provisions of this order, the lands of the continental shelf of the United States and Alaska lying seaward of the line of mean low tide and outside the inland waters and extending to the furthestmost limits of the paramount rights, full dominion, and power of the United States over lands of the continental shelf are hereby set aside as a naval petroleum reserve and shall be administered by the Secretary of the Navy.

(b) The reservation established by this section shall be for oil and gas only, and shall not interfere with the use of the lands or waters within the reserved area for any lawful purpose not inconsistent with the reservation.

SEC. 2. The provisions of this order shall not affect the operating stipulation which was entered into on July 26, 1947, by the Attorney General of the United States and the Attorney General of California in the case of *United States of America v. State of California* (in the Supreme Court of the United States, October Term, 1947, No. 12 Original), as thereafter extended and modified.

SEC. 3. (a) The functions of the Secretary of the Interior under Parts II and III of the notice issued by the Secretary of the Interior on December 11, 1950, and entitled "Oil and Gas Operations in the Submerged Coastal Lands of the Gulf of Mexico" (15 F. R. 8835), as supplemented and amended, are transferred to the Secretary of the Navy; and the term "Secretary of the Navy" shall be substituted for the term "Secretary of the Interior" wherever the latter term occurs in the said Parts II and III.

(b) Paragraph (c) of Part III of the aforesaid notice dated December 11, 1950, as amended, is amended to read as follows:

"(c) The remittance shall be deposited in a suspense account within the Treasury of the United States, subject to the control of the Secretary of the Navy, the proceeds to be expended in such manner as may hereafter be directed by an act of Congress or, in the absence of such direction, refunded (which may include a refund of the money for reasons other than those hereinafter set forth) or deposited into the general fund of the Treasury as the Secretary of the Navy may deem to be proper."

(c) The provisions of Parts II and III of the aforesaid notice dated December 11, 1950, as supplemented and amended, including the amendments made by this order, shall continue in effect until changed by the Secretary of the Navy.

SEC. 4. Executive Order No. 9633 of September 28, 1945, entitled "Reserving and Placing Certain Resources of the Continental Shelf under the Control and Jurisdiction of the Secretary of the Interior" (10 F. R. 12305), is hereby revoked.

HARRY S. TRUMAN.

THE WHITE HOUSE, January 16, 1953.